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HOUSE BILL 206

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Jimmie C. Hall

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE DEPARTMENT OF GAME AND FISH WITH THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; TRANSFERRING THE DUTIES OF THE STATE GAME COMMISSION TO THE GAME AND FISH DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; ELIMINATING THE STATE GAME COMMISSION; PROVIDING FOR TRANSFERS OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1997, LAWS 2000 AND LAWS 2005.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-5A-1 NMSA 1978 (being Laws 1987, Chapter 234, Section 1) is amended to read:

"9-5A-1. SHORT TITLE.-- [~~Sections 1 through 7 of this act]~~

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1 Chapter 9, Article 5A NMSA 1978 may be cited as the "Energy,  
2 Minerals and Natural Resources Department Act".

3 SECTION 2. Section 9-5A-3 NMSA 1978 (being Laws 1987,  
4 Chapter 234, Section 3, as amended by Laws 1997, Chapter 137,  
5 Section 1 and also by Laws 1997, Chapter 149, Section 2) is  
6 amended to read:

7 "9-5A-3. DEPARTMENT ESTABLISHED.--~~[A.]~~ There is created  
8 in the executive branch the "energy, minerals and natural  
9 resources department". The department shall be a cabinet  
10 department and shall include but not be limited to the  
11 following organizational units:

- 12 [~~(1)~~] A. the administrative services division;
- 13 [~~(2)~~] B. the state parks division;
- 14 [~~(3)~~] C. the forestry division;
- 15 [~~(4)~~] D. the energy conservation and management  
16 division;
- 17 [~~(5)~~] E. the mining and minerals division; ~~and~~
- 18 [~~(6)~~] F. the oil conservation division; and
- 19 G. the game and fish division

20 [~~B. The state game commission is administratively~~  
21 ~~attached to the department]."~~

22 SECTION 3. Section 9-5A-5 NMSA 1978 (being Laws 1987,  
23 Chapter 234, Section 5) is amended to read:

24 "9-5A-5. SECRETARY OF ENERGY, MINERALS AND NATURAL  
25 RESOURCES--APPOINTMENT--POWERS AND DUTIES.--

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1           A. The administrative head of the energy, minerals  
2 and natural resources department is the "secretary of energy,  
3 minerals and natural resources", who shall be appointed by the  
4 governor with the consent of the senate and who shall serve in  
5 the executive cabinet.

6           B. An appointed secretary of energy, minerals and  
7 natural resources shall serve and have all of the duties,  
8 responsibilities and authority of that office during the period  
9 of time prior to final action by the senate confirming or  
10 rejecting [~~his~~] the secretary's appointment.

11           C. The secretary of energy, minerals and natural  
12 resources has every power expressly enumerated in the laws to  
13 perform the secretary's duties, whether granted to the  
14 secretary, the energy, minerals and natural resources  
15 department or any division of the department, except where  
16 authority conferred upon any division is explicitly exempt from  
17 the secretary's authority by statute."

18           SECTION 4. Section 11-16-1 NMSA 1978 (being Laws 2001,  
19 Chapter 101, Section 1) is amended to read:

20           "11-16-1. SHORT TITLE.--~~[This act]~~ Chapter 11, Article 16  
21 NMSA 1978 may be cited as the "Wildlife Violator Compact"."

22           SECTION 5. Section 11-16-11 NMSA 1978 (being Laws 2001,  
23 Chapter 101, Section 11) is amended to read:

24           "11-16-11. LICENSING AUTHORITY--ADMINISTRATOR--  
25 EXPENSES.--

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1           A. The [~~department of~~] game and fish division of  
2 the energy, minerals and natural resources department is  
3 designated as the licensing authority in New Mexico for the  
4 purposes of the Wildlife Violator Compact.

5           B. The director of the [~~department of~~] game and  
6 fish division shall furnish to the appropriate authorities of  
7 the participating states any information or documents  
8 reasonably necessary to facilitate the administration of the  
9 Wildlife Violator Compact.

10           C. The compact administrator shall not be entitled  
11 to any additional compensation for [~~his~~] service as the compact  
12 administrator, but shall be entitled to expenses incurred in  
13 connection with [~~his~~] the duties and responsibilities as  
14 compact administrator in the same manner as for expenses  
15 incurred in connection with other duties or responsibilities of  
16 [~~his~~] the compact administrator's office or employment."

17           SECTION 6. Section 16-2-2 NMSA 1978 (being Laws 1977,  
18 Chapter 254, Section 113, as amended) is amended to read:

19           "16-2-2. STATE PARKS--GAME AND FISH ADVISORY BOARD  
20 CREATED--MEMBERSHIP--COMPENSATION--DUTIES.--

21           A. The "advisory board" to the state parks division  
22 and the game and fish division of the energy, minerals and  
23 natural resources department is created. It shall be composed  
24 of seven to eleven members appointed by the governor.

25           B. The advisory board shall provide advice and make

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1 recommendations relating to the administration of the state  
2 parks division and the game and fish division and the interface  
3 between the two divisions and state parks and game and fish  
4 issues. It shall advise on all matters of policy,  
5 [~~regulations~~] rules, the formulation of [~~a~~] comprehensive  
6 statewide recreation [~~plan~~], hunting and fishing plans and such  
7 other matters as may be requested by the director of [~~that~~  
8 ~~division~~] each division.

9 C. The advisory board shall meet quarterly or at  
10 the call of the [~~chairman~~] chair.

11 D. Each member of the advisory board shall annually  
12 elect a [~~chairman~~] chair and vice [~~chairman~~] chair from its  
13 membership. The director of the state parks division shall  
14 serve as the executive secretary of the board.

15 E. Members of the advisory board shall not be paid  
16 and shall not receive per diem."

17 SECTION 7. Section 16-2-32 NMSA 1978 (being Laws 1935,  
18 Chapter 57, Section 19, as amended) is amended to read:

19 "16-2-32. CRIMINAL OFFENSES--PENALTY.--A person who  
20 commits any of the following acts is guilty of a petty  
21 misdemeanor and shall be sentenced in accordance with the  
22 provisions of Section 31-19-1 NMSA 1978:

23 A. cut, break, injure, destroy, take or remove a  
24 tree, shrub, timber, plant or natural object in any state park  
25 and recreation area, except in areas designated by the

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1 secretary of energy, minerals and natural resources and  
2 permitted by [~~regulations~~] rules adopted by the secretary.  
3 [~~such. Regulations~~] Rules shall only permit the removal of a  
4 tree, shrub, timber, plant or natural object for scientific  
5 study or for noncommercial use by an individual as a souvenir.  
6 The quantity of material authorized for removal from any area  
7 shall be strictly regulated by park personnel in order to  
8 minimize resource damage;

9 B. kill, cause to be killed or pursue with intent  
10 to kill a bird or animal in a state park and recreation area,  
11 except in areas designated by the secretary and except in  
12 conformity with the provisions of general law and the  
13 [~~regulations~~] rules of the [~~state game commission~~] game and  
14 fish division of the energy, minerals and natural resources  
15 department;

16 C. take a fish from the waters of a state park and  
17 recreation area, except in conformity with the provisions of  
18 general law and the [~~regulations~~] rules of the [~~state game~~  
19 ~~commission~~] game and fish division;

20 D. willfully mutilate, injure, deface or destroy  
21 any guidepost, notice, tablet, fence, enclosure or work that is  
22 for the protection or ornamentation of a state park and  
23 recreation area;

24 E. light a fire in a state park and recreation  
25 area, except in those places authorized for fires by the

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1 secretary, or willfully or carelessly permit any fire [~~which~~]  
2 that is authorized and that [~~he~~] the person has lighted or  
3 caused to be lighted or under [~~his~~] the person's charge to  
4 spread or extend to or burn the shrubbery, trees, timber,  
5 ornaments or improvements in a state park and recreation area  
6 or leave a campfire that [~~he~~] the person has lighted or that  
7 has been left in [~~his~~] the person's charge unattended by a  
8 competent person without extinguishing it;

9 F. place in a state park and recreation area or affix  
10 to an object in a state park and recreation area a word,  
11 character or device designed to advertise a business,  
12 profession, article, thing, exhibition, matter or event without  
13 a written license from the secretary permitting [~~him~~] the  
14 person to do it; or

15 G. violate a rule [~~or regulation~~] adopted by the  
16 secretary pursuant to the provisions of Chapter 16, Article 2  
17 NMSA 1978."

18 SECTION 8. Section 17-1-5 NMSA 1978 (being Laws 1931,  
19 Chapter 117, Section 5, as amended) is amended to read:

20 "17-1-5. [~~EMPLOYMENT AND DISCHARGE OF~~] DIRECTOR [~~AND~~  
21 ~~OTHER EMPLOYEES--DEPARTMENT OF GAME AND FISH CREATED~~] OF THE  
22 GAME AND FISH DIVISION.--[A.] The [~~state game commission~~]  
23 energy, minerals and natural resources department shall employ  
24 a director of the game and fish division of the department, who  
25 shall [~~under such authorization that the game commission shall~~

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1 ~~approve]~~ employ such conservation officers, clerks and other  
2 employees as ~~[he shall deem]~~ the director deems proper and  
3 necessary to enforce and administer the laws and ~~[regulations]~~  
4 rules relating to game and fish, and who shall prescribe their  
5 duties respectively. ~~[and who with the advice and consent of~~  
6 ~~the state game commission shall fix the compensation of all the~~  
7 ~~employees of the "department of game and fish", which is hereby~~  
8 ~~created.~~

9 B. ~~The state game commission may at any time~~  
10 ~~discharge the director for reasons that the state game~~  
11 ~~commission shall deem sufficient. The director may dismiss~~  
12 ~~employees in accordance with the provisions of the Personnel~~  
13 ~~Act.]"~~

14 SECTION 9. Section 17-1-5.1 NMSA 1978 (being Laws 1994,  
15 Chapter 129, Section 1) is amended to read:

16 "17-1-5.1. CONSERVATION SERVICES ~~[DIVISION]~~ BUREAU--  
17 DUTIES.--

18 A. The "conservation services ~~[division]~~ bureau" is  
19 created within the ~~[department of]~~ game and fish division of  
20 the energy, minerals and natural resources department.

21 B. The conservation services ~~[division]~~ bureau is  
22 responsible for:

23 (1) management, enhancement, research and  
24 conservation of public wildlife habitat;

25 (2) the lease, purchase, enhancement and

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1 management of state wildlife habitat;

2 (3) assisting landowners in improving wildlife  
3 habitats;

4 (4) development of educational programs related  
5 to conservation of wildlife and the environment, including the  
6 expanded dissemination of wildlife publications; and

7 (5) communication and consultation with federal  
8 and other state agencies, local governments and communities,  
9 private organizations and affected interests responsible for  
10 habitat, wilderness, recreation, water quality and  
11 environmental protection to ensure comprehensive conservation  
12 services for hunters, anglers and nonconsumptive wildlife  
13 users."

14 SECTION 10. Section 17-1-7 NMSA 1978 (being Laws 1955,  
15 Chapter 181, Section 1) is amended to read:

16 "17-1-7. RESERVE CONSERVATION OFFICER.--There is hereby  
17 created within the [~~department of~~] game and fish division of  
18 the energy, minerals and natural resources department the  
19 position of "reserve conservation officer", which shall be a  
20 nonsalaried position."

21 SECTION 11. Section 17-1-8 NMSA 1978 (being Laws 1955,  
22 Chapter 181, Section 2) is amended to read:

23 "17-1-8. QUALIFICATIONS.--

24 A. Reserve conservation officer commissions shall be  
25 issued only to [~~the following: (a)~~] persons who have

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1 successfully completed a school of at least twenty-five hours  
2 conducted by the [~~department of~~] game and fish division of the  
3 energy, minerals and natural resources department covering  
4 procedures and techniques of wildlife management, law  
5 enforcement, public relations and such other subjects as may be  
6 deemed desirable by the [~~department of game and fish~~] division.

7 [~~(b)~~] B. The director of the game and fish division  
8 may substitute a minimum of six [~~months~~] months' experience as  
9 an employee of a state or federal conservation agency,  
10 including the state parks division, or a state livestock law  
11 enforcement board in lieu of the [~~aforementioned~~] schooling  
12 required under Subsection A of this section. Any substitution  
13 made under the provisions of this [~~paragraph~~] subsection shall  
14 be limited to the personnel currently employed by one of the  
15 [~~aforementioned~~] conservation agencies set forth in this  
16 subsection. Any appointments the director may make under the  
17 provisions of this [~~paragraph will~~] subsection shall terminate  
18 automatically with the termination of employment by [~~said~~] the  
19 agency of the individual so appointed or the individual's  
20 transfer from the state."

21 **SECTION 12.** Section 17-1-9 NMSA 1978 (being Laws 1955,  
22 Chapter 181, Section 3, as amended) is amended to read:

23 "17-1-9. POWERS AND DUTIES OF RESERVE CONSERVATION  
24 OFFICERS.--

25 A. Under the supervision of the [~~department of~~] game

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1 and fish [~~and subject to such restrictions as may be provided~~  
2 ~~by the state game commission~~] division of the energy, minerals  
3 and natural resources department, reserve conservation officers  
4 shall have authority to enforce laws and valid [~~regulations~~]  
5 rules of the [~~state game commission~~] division relating to game  
6 and fish and perform such duties with respect to wildlife  
7 management and conservation education as may be assigned to  
8 them from time to time by the [~~department of game and fish~~]  
9 division. When on duty, reserve conservation officers shall be  
10 covered by the [~~Workmen's~~] Workers' Compensation Act. Reserve  
11 conservation officers shall have only the rights of private  
12 citizens in the enforcement of laws other than those relating  
13 to game and fish.

14 B. For the purpose of calculating the amount of  
15 reserve conservation officer's disability or death benefits  
16 pursuant to the [~~Workmen's~~] Workers' Compensation Act, the  
17 officer's average weekly wages shall be deemed to be the base  
18 wage of a wildlife management officer II as classified by the  
19 personnel board."

20 SECTION 13. Section 17-1-11 NMSA 1978 (being Laws 1977,  
21 Chapter 290, Section 5) is amended to read:

22 "17-1-11. CONSERVATION OFFICERS--OFFICIAL DUTIES--  
23 INSURANCE.--Conservation officers shall, in emergency  
24 situations, be considered on duty and within the scope of their  
25 employment for purposes of employee benefits and risk insurance

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1 when they follow specific instructions from a duly qualified  
2 full-time peace officer and in aid of [~~such~~] the peace officer  
3 in the carrying out of [~~his~~] the peace officer's duties. [~~The~~  
4 ~~state game commission shall expand current insurance coverage~~  
5 ~~to provide protection in such situations.~~]"

6 SECTION 14. Section 17-1-13 NMSA 1978 (being Laws 1912,  
7 Chapter 85, Section 46, as amended) is amended to read:

8 "17-1-13. [~~GAME WARDEN~~] DIRECTOR--SEAL OF OFFICE [~~SHALL~~  
9 ~~KEEP~~].--[~~Sec. 46.~~] The [~~State Warden~~] director of the game and  
10 fish division of the energy, minerals and natural resources  
11 department shall keep a seal of office [~~which shall be~~] that is  
12 used to authenticate all papers and documents issued and  
13 executed by [~~him~~] the director as such officer."

14 SECTION 15. Section 17-1-14 NMSA 1978 (being Laws 1921,  
15 Chapter 35, Section 7, as amended by Laws 2005, Chapter 38,  
16 Section 1 and by Laws 2005, Chapter 177, Section 1) is amended  
17 to read:

18 "17-1-14. GENERAL POWERS AND DUTIES OF [~~STATE GAME~~  
19 ~~COMMISSION~~] GAME AND FISH DIVISION--GAME PROTECTION FUND--  
20 LIABILITY SUSPENSE ACCOUNT.--

21 A. The [~~state game commission~~] game and fish division  
22 of the energy, minerals and natural resources department shall  
23 have general control over the collection and disbursement of  
24 all money collected or received under the state laws for the  
25 protection and propagation of game and fish, which money shall

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1 be paid over to the state treasurer to the credit of the game  
2 protection fund, unless otherwise provided by law, and the  
3 fund, including all earned income, shall not be transferred to  
4 another fund. Prior to depositing money into the game  
5 protection fund, the ~~[department of]~~ game and fish division  
6 shall ensure that an amount adequate to cover the cost of  
7 refunds allowed by the provisions of Chapter 17 NMSA 1978 is  
8 held in a liability suspense account. All refunds shall be  
9 made from the liability suspense account. Money not needed to  
10 cover the cost of refunds shall be deposited in the game  
11 protection fund at the end of each month. Chapter 17 NMSA 1978  
12 shall be guaranty to the person who pays for hunting and  
13 fishing licenses and permits that the money in that fund shall  
14 not be used for any purpose other than as provided in Chapter  
15 17 NMSA 1978.

16 B. The ~~[state game commission]~~ game and fish division  
17 shall have authority to:

18 (1) establish and ~~[through the director of the~~  
19 ~~department of game and fish, to]~~ operate fish hatcheries for  
20 the purpose of stocking public waters of the state and to  
21 furnish fish fry and fingerlings to stock private waters,  
22 receipts from such sources to go into the game protection fund;

23 (2) declare closed seasons in any specified  
24 locality and on any species of game or fish threatened with  
25 undue depletion from any cause;

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1                   (3) establish game refuges for the purpose of  
2 providing safe sanctuaries in which game may breed and  
3 replenish adjacent hunting ranges, it being the purpose of this  
4 provision to establish small refuges rather than large  
5 preserves or to close large areas to hunting;

6                   (4) purchase lands for game refuges where  
7 suitable public lands do not exist, to purchase lands for fish  
8 hatcheries and to purchase lands to be maintained perpetually  
9 as public hunting grounds, particularly lands suitable for  
10 waterfowl hunting, all such lands to be paid for from the game  
11 protection fund;

12                   (5) receive by gift or bequest, in the name and  
13 on behalf of the state, lands suitable for game refuges,  
14 hunting grounds, fish hatcheries or for any other purpose  
15 necessary to carry out the provisions of Chapter 17 NMSA 1978;

16                   (6) apply for and accept any state, federal or  
17 private funds, grants or donations from any source for game and  
18 fish programs and projects;

19                   (7) designate certain areas as rest grounds for  
20 migratory birds, in which hunting shall be forbidden at all  
21 times or at such times as the [~~state game commission~~] division  
22 shall provide, it being the purpose of this provision not to  
23 interfere unduly with the hunting of waterfowl but to provide  
24 havens in which they can rest and feed without molestation;

25                   (8) close any public stream or lake or portion

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1       thereof to fishing when such action is necessary to protect a  
2       recently stocked water, to protect spawning waters or to  
3       prevent undue depletion of the fish;

4               (9) propagate, capture, purchase, transport or  
5       sell any species of game or fish needed for restocking any  
6       lands or streams of the state;

7               (10) after reasonable notice and hearing,  
8       suspend or revoke any license or permit issued pursuant to the  
9       provisions of Chapter 17 NMSA 1978 and withhold license  
10       privileges for a definite period not to exceed three years from  
11       any person procuring a license through misrepresentation,  
12       violating any provisions of Chapter 17 NMSA 1978 or hunting  
13       without a proper license;

14               (11) adopt rules establishing procedures that  
15       provide reasonable notice and a hearing before the [~~state game~~  
16       ~~commission~~] director of the game and fish division for the  
17       suspension, revocation or withholding of license privileges of  
18       a person charged with violating the provisions of Chapter 17  
19       NMSA 1978, subject to such judicial review as may be provided  
20       by law;

21               (12) conduct studies of programs for the  
22       management of endangered and nongame species of wildlife;

23               (13) establish licenses, permits and  
24       certificates not otherwise provided for in Section 17-3-13 NMSA  
25       1978 and charge and collect just and reasonable fees for them;

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1 provided the fees shall not exceed the costs of administration  
2 associated with the licenses, permits or certificates;

3 (14) permit, regulate or prohibit the commercial  
4 taking or capturing of native, free-ranging amphibians or  
5 reptiles not specifically protected by law, except for  
6 rattlesnake roundups, collection of fish bait and lizard races;

7 (15) adopt rules to control, eradicate or  
8 prevent the spread of a contagious disease, pest or parasite,  
9 including chronic wasting disease, to or among game animals.

10 The rules shall include provisions for:

11 (a) notification to the [~~department of game~~  
12 ~~and fish~~] division of the diagnosis or suspected presence of a  
13 contagious disease;

14 (b) examination by the state veterinarian or  
15 the state veterinarian's designee of suspected infected game  
16 animals;

17 (c) quarantine, treatment or destruction of  
18 an infected game animal;

19 (d) disinfection and isolation of a licensed  
20 private park where an infected game animal has been; and

21 (e) indemnification and destruction of a  
22 protected game animal;

23 (16) as necessary, designate areas of the state  
24 in which bear-proof garbage containers are required on public  
25 and private lands to reduce potential human-bear interactions;

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1 and

2 (17) pursuant to appropriation by the  
3 legislature, expend money from the game protection fund and the  
4 habitat management fund for the improvement, maintenance,  
5 development and operation of property for fish and wildlife  
6 habitat management.

7 C. The director of the [~~department of~~] game and fish  
8 division shall exercise all the powers and duties conferred  
9 upon the state game and fish warden and the chair of the state  
10 game commission by all previous statutes now in force not in  
11 conflict with Chapter 17 NMSA 1978.

12 D. The [~~state game commission~~] game and fish division  
13 shall have authority to prohibit all hunting in periods of  
14 extreme forest fire danger, at such times and places as may be  
15 necessary to reduce the danger of destructive forest fires.

16 E. The hunting, pursuing, capturing, killing or  
17 wounding of any game animals, birds or fish in or upon any game  
18 refuge, rest ground or closed water or closed area or during  
19 any closed season established or proclaimed by the [~~state game~~  
20 ~~commission~~] game and fish division in accordance with the  
21 authority conferred in Chapter 17 NMSA 1978 constitutes a  
22 misdemeanor and shall be punishable as prescribed in Chapter 17  
23 NMSA 1978."

24 SECTION 16. Section 17-1-18 NMSA 1978 (being Laws 1964  
25 (1st S.S.), Chapter 18, Section 3, as amended) is amended to  
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1 read:

2 "17-1-18. BONDING AUTHORITY.--Whenever the [~~state game~~  
3 ~~commission, by vote of a majority of its full membership~~  
4 ~~entered in its minutes~~] secretary of energy, minerals and  
5 natural resources determines [~~by resolution~~], upon  
6 recommendation of the director of the game and fish division of  
7 the energy, minerals and natural resources department, that it  
8 is necessary to raise funds to provide for fish hatcheries and  
9 rearing facilities, game and fish habitat acquisition,  
10 development and improvement projects or other similar capital  
11 outlay projects, the [~~commission~~] secretary may issue and sell  
12 bonds of the state [~~of New Mexico~~] as provided in the Game and  
13 Fish Bond Act, provided that the total amount of [~~such~~] bonds  
14 issued under the authority of [~~this~~] the Game and Fish Bond Act  
15 shall not exceed two million dollars (\$2,000,000). The  
16 purposes stated by the [~~commission~~] secretary and the amount of  
17 each bond issue shall be approved by the state board of finance  
18 before issuance of the bonds. The [~~commission~~] secretary shall  
19 report annually to the legislature any bonds issued pursuant to  
20 [~~this~~] the Game and Fish Bond Act and the purpose for which  
21 issued."

22 SECTION 17. Section 17-1-19 NMSA 1978 (being Laws 1964  
23 (1st S.S.), Chapter 18, Section 4, as amended) is amended to  
24 read:

25 "17-1-19. BONDS--FORM--TERMS.--Bonds issued under the

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1 Game and Fish Bond Act shall be payable in consecutive order  
2 over a period of not more than twenty years from the date of  
3 issue. They shall be issued in denominations determined by the  
4 ~~[state game commission]~~ secretary of energy, minerals and  
5 natural resources and shall be sold at a net effective interest  
6 rate not exceeding the maximum net effective interest rate  
7 permitted by the Public Securities Act, as hereafter amended  
8 and supplemented. The form of the bonds shall be determined by  
9 the ~~[state game commission]~~ secretary and, except with respect  
10 to bonds issued in book entry or similar form without the  
11 delivery of physical securities, signatures of the governor,  
12 the state treasurer and the ~~[chairman of the state game~~  
13 ~~commission]~~ secretary shall be affixed in compliance with the  
14 Uniform Facsimile Signature of Public Officials Act. The form  
15 and terms of the bonds shall be approved by the state board of  
16 finance before issuance of the bonds."

17 SECTION 18. Section 17-1-20 NMSA 1978 (being Laws 1964  
18 (1st S.S.), Chapter 18, Section 5, as amended) is amended to  
19 read:

20 "17-1-20. SALE OF BONDS.--Bonds issued under the Game and  
21 Fish Bond Act shall be sold at public or private sale as  
22 determined by the ~~[state game commission]~~ secretary of energy,  
23 minerals and natural resources. If sold at public sale, the  
24 ~~[chairman of the commission]~~ secretary shall give notice of the  
25 time, place and terms of the sale by publication in a newspaper

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1 of general circulation published in Santa Fe, New Mexico, not  
2 less than twenty days nor more than sixty days prior to the  
3 sale date."

4 SECTION 19. Section 17-1-22 NMSA 1978 (being Laws 1964  
5 (1st S.S.), Chapter 18, Section 7, as amended) is amended to  
6 read:

7 "17-1-22. SECURITY--RETIREMENT OF BONDS.--

8 A. There is created in the state treasury the "game  
9 and fish bond retirement fund". The [~~state game commission~~]  
10 game and fish division of the energy, minerals and natural  
11 resources department shall place into the game and fish bond  
12 retirement fund the sum of one dollar (\$1.00) from each license  
13 enumerated in this subsection that is sold after April 1, 1976:

- 14 (1) resident, fishing;
- 15 (2) resident, small game;
- 16 (3) resident, deer;
- 17 (4) resident, general hunting;
- 18 (5) resident, general hunting and fishing;
- 19 (6) resident, trapper;
- 20 (7) nonresident, fishing;
- 21 (8) nonresident, small game;
- 22 (9) temporary fishing, five days; and
- 23 (10) nonresident, deer.

24 Such payments to the game and fish bond retirement fund shall  
25 be effective for all bonds issued under the Game and Fish Bond

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1 Act up to the maximum limitation on the amount of bonds  
2 provided in that act.

3 B. Money in the game and fish bond retirement fund is  
4 first pledged for the payment of principal and interest on all  
5 state game commission bonds ~~[which]~~ that have been issued and  
6 are outstanding ~~[at the time of the effective date of this 1983~~  
7 ~~amendment]~~ prior to June 17, 1983. Money in the game and fish  
8 bond retirement fund is further pledged for the payment of  
9 principal and interest on all state game commission bonds  
10 issued ~~[after the effective date of this 1983 amendment]~~ as of  
11 June 17, 1983. The issuance and sale of bonds under the Game  
12 and Fish Bond Act ~~[constitutes]~~ constitute an irrevocable  
13 contract between the ~~[state game commission]~~ energy, minerals  
14 and natural resources department and the owner of any bond, and  
15 so long as any bond remains outstanding, the fees pledged for  
16 payment shall not be reduced.

17 C. Bonds issued under the Game and Fish Bond Act are  
18 payable solely from the game and fish bond retirement fund, and  
19 they are not general obligations of the state.

20 D. The ~~[state game commission]~~ game and fish division  
21 shall continue to place in the game and fish bond retirement  
22 fund the sum of one dollar (\$1.00) from each of the licenses  
23 enumerated in Subsection A of this section, even after the fund  
24 is sufficient to pay the principal and interest of the  
25 outstanding bonds and after all bonds issued have been

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1 retired."

2 SECTION 20. Section 17-1-22.1 NMSA 1978 (being Laws 1983,  
3 Chapter 143, Section 2) is amended to read:

4 "17-1-22.1. GAME AND FISH CAPITAL OUTLAY FUND--CREATED--  
5 TRANSFER OF MONEY--STATE BOARD OF FINANCE APPROVAL.--

6 A. There is created in the state treasury the "game  
7 and fish capital outlay fund".

8 B. Upon request of the [~~state game commission~~]  
9 director of the game and fish division of the energy, minerals  
10 and natural resources department, approved by the state board  
11 of finance, the state treasurer shall transfer to the game and  
12 fish capital outlay fund all money in the game and fish bond  
13 retirement fund except the amount necessary to meet all  
14 principal and interest payments on state game commission or  
15 game and fish division bonds due in the ensuing twelve months.

16 C. Money in the game and fish capital outlay fund may  
17 be expended by the [~~department of~~] game and fish division to  
18 provide for fish hatcheries and rearing facilities, game and  
19 fish habitat acquisition, development and improvements and  
20 other similar capital projects.

21 D. Projects to be funded pursuant to Subsection C of  
22 this section shall be approved by the [~~state game commission~~]  
23 secretary of energy, minerals and natural resources and the  
24 state board of finance prior to any money being encumbered for  
25 the project.

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1           E. At any time that the game and fish bond retirement  
2 fund is insufficient to pay the principal and interest on all  
3 bonds ~~[which]~~ that have been issued and are outstanding, the  
4 unencumbered balance in the game and fish capital outlay fund  
5 shall be transferred to the game and fish bond retirement  
6 fund."

7           **SECTION 21.** Section 17-1-23 NMSA 1978 (being Laws 1964  
8 (1st S.S.), Chapter 18, Section 8) is amended to read:

9           "17-1-23. CONSTRUCTION.--The Game and Fish Bond Act is  
10 full authority for authorization and issuance by the ~~[state~~  
11 ~~game commission]~~ energy, minerals and natural resources  
12 department of bonds authorized by the state board of finance,  
13 and the ~~[commission]~~ department may do anything necessary to  
14 carry out the powers granted by the Game and Fish Bond Act."

15           **SECTION 22.** Section 17-1-25 NMSA 1978 (being Laws 1964  
16 (1st S.S.), Chapter 18, Section 10) is amended to read:

17           "17-1-25. REFUNDING.--Any bonds issued under the Game and  
18 Fish Bond Act may be refunded under the terms of resolutions  
19 adopted by the ~~[state game commission]~~ secretary of energy,  
20 minerals and natural resources, subject to any contractual  
21 limitations involved with any outstanding bonds, claims or  
22 other obligations. The proceeds of refunding bonds shall be  
23 applied to retirement of the bonds to be retired or refunded,  
24 or placed in escrow to be applied to payment of the bonds upon  
25 presentation for payment by the holders. Refunding bonds shall

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1 be issued under all applicable conditions prescribed in the  
2 Game and Fish Bond Act for issuance of the original bonds."

3 SECTION 23. Section 17-1-26 NMSA 1978 (being Laws 1931,  
4 Chapter 117, Section 2, as amended) is amended to read:

5 "17-1-26. RULEMAKING POWER--PREDATOR ERADICATION.--

6 A. The ~~[state game commission is hereby authorized~~  
7 ~~and directed to make such]~~ game and fish division of the  
8 energy, minerals and natural resources department shall  
9 promulgate rules [and regulations] and establish ~~[such service]~~  
10 services as it may deem necessary to carry out all the  
11 provisions and purposes of ~~[this Act]~~ Chapter 17 NMSA 1978 and  
12 all other acts relating to game and fish ~~[and]~~. In making such  
13 rules ~~[and regulations]~~ and in providing when, to what extent,  
14 if at all, and by what means game animals, birds and fish may  
15 be hunted, taken, captured, killed, possessed, sold, purchased  
16 and shipped, the ~~[state game and Fish commission]~~ division  
17 shall give due regard to the zones of temperatures and to the  
18 distribution, abundance, economic value and breeding habits of  
19 ~~[such]~~ the game animals, birds and fish.

20 B. The ~~[state game commission is hereby authorized~~  
21 ~~to]~~ game and fish division may spend such reasonable amounts as  
22 in its judgment is ~~[desirable and]~~ necessary annually, from  
23 ~~[their]~~ the division's funds not otherwise needed, for the  
24 eradication of predatory animals."

25 SECTION 24. Section 17-1-27 NMSA 1978 (being Laws 1921,

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1 Chapter 35, Section 10) is amended to read:

2 "17-1-27. RULES--NOTICE AND HEARING.--Whenever three  
3 percent of the duly qualified electors of any county affected  
4 by a rule [~~or regulation~~] promulgated by the [~~commission~~] game  
5 and fish division of the energy, minerals and natural resources  
6 department, concerning hunting or fishing within [~~said~~] that  
7 county, [~~shall~~] petition the [~~commission~~] division in writing  
8 requesting a hearing, the [~~commission~~] division shall grant a  
9 public hearing, the time, place and purpose of which shall be  
10 set forth by advertising in one or more newspapers of general  
11 circulation within the state not less than ten [~~(+10)~~] days  
12 before the date of [~~such~~] the hearing, and shall, on the date  
13 of hearing, give full opportunity for all persons to be heard  
14 on the point in controversy; [~~but~~] provided that nothing in  
15 this section shall be construed as suspending or invalidating  
16 any such rule [~~or regulation~~], unless it is suspended or  
17 revoked by the [~~commission~~] division."

18 **SECTION 25.** Section 17-1-28 NMSA 1978 (being Laws 1939,  
19 Chapter 19, Section 1) is amended to read:

20 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New  
21 Mexico hereby assents to the provisions of the act of congress  
22 of the United States of America entitled "An act to provide  
23 that the United States shall aid the states in wildlife  
24 restoration projects, and for other purposes", approved  
25 September [7] 2, 1937 (Public Number 415, 75th Congress), and

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1 the ~~[state game commission]~~ game and fish division of the  
2 energy, minerals and natural resources department is hereby  
3 authorized and directed to perform all ~~[such]~~ acts as may be  
4 necessary to the conduct and establishment of cooperative  
5 wildlife restoration projects as defined by ~~[said]~~ that act of  
6 congress and in compliance with ~~[said]~~ that act and rules and  
7 regulations promulgated by the secretary of ~~[agriculture]~~ the  
8 interior thereunder."

9 SECTION 26. Section 17-1-29 NMSA 1978 (being Laws 1939,  
10 Chapter 19, Section 2) is amended to read:

11 "17-1-29. DISTRIBUTION OF FEDERAL FUNDS.--The ~~[state game~~  
12 ~~commission]~~ game and fish division of the energy, minerals and  
13 natural resources department is authorized to receive any  
14 ~~[moneys]~~ money to which the state ~~[of New Mexico]~~ may become  
15 entitled under the ~~[aforesaid act of congress]~~ federal Wildlife  
16 and Sport Fish Restoration Programs Improvement Act of 2000.  
17 Such ~~[moneys]~~ money, when received, ~~[to]~~ shall be deposited  
18 with the state treasurer ~~[of the state of New Mexico]~~ to the  
19 credit of the ~~[state]~~ game protection fund, expended for the  
20 purpose designated and withdrawn ~~[and]~~ as other ~~[moneys are]~~  
21 money is withdrawn from the ~~[state]~~ game protection fund."

22 SECTION 27. Section 17-2-1 NMSA 1978 (being Laws 1931,  
23 Chapter 117, Section 3, as amended) is amended to read:

24 "17-2-1. ~~[COMMISSION]~~ DIVISION POWERS.--The ~~[state game~~  
25 ~~commission]~~ game and fish division of the energy, minerals and

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1 natural resources department, in addition to the powers now  
2 vested in it and not as a limitation of those powers, is  
3 expressly authorized and empowered by [~~regulation~~] rule adopted  
4 and promulgated in the manner provided in Chapter 17 NMSA 1978  
5 to:

6 A. define game birds, game animals and game fish;

7 B. establish open and closed seasons for the killing  
8 or taking of all kinds of game animals, game birds and game  
9 fish and to change such open seasons from year to year and to  
10 fix different seasons for different parts of the state;

11 C. establish bag limits covering all kinds of game  
12 animals, game birds and game fish and the numbers thereof  
13 [~~which~~] that may be killed or taken by any one person during  
14 any one day or during any one open season;

15 D. authorize or prohibit the killing or taking of any  
16 game animals, game birds or game fish of any kind or sex;

17 E. prescribe the manner, methods and devices [~~which~~]  
18 that may be used in hunting, taking or killing game animals,  
19 game birds and game fish;

20 F. prescribe rules [~~and regulations~~] to prohibit any  
21 vehicle or vehicles used in transporting persons engaged in  
22 hunting, taking or killing game animals, game birds and game  
23 fish from leaving established roadways; and

24 G. appoint one or more advisory committees to furnish  
25 advice, evaluations and recommendations for wildlife management

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1 projects utilizing revenue derived from the sale of public land  
2 management stamps. The advisory committees shall be created  
3 pursuant to the procedures of Section 9-1-9 NMSA 1978, provided  
4 that the restrictions on the life of advisory committees  
5 contained in Subsection F of that section shall not be  
6 applicable."

7 SECTION 28. Section 17-2-2 NMSA 1978 (being Laws 1937,  
8 Chapter 23, Section 1) is amended to read:

9 "17-2-2. GAME TO BE PROTECTED.--The game animals and  
10 quadrupeds, game birds and fowl and game fish as [~~herein~~]  
11 defined in Chapter 17 NMSA 1978 shall be protected, and  
12 hunting, taking, capturing, killing or possession of or attempt  
13 to hunt, take, capture or kill [~~of~~] any or all species named  
14 [~~herein~~] in that chapter shall be regulated by the [~~state game~~  
15 ~~commission~~] game and fish division of the energy, minerals and  
16 natural resources department under the authority of Chapter  
17 [~~117 of the 1931 Session Laws of the State of New Mexico~~] 17  
18 NMSA 1978."

19 SECTION 29. Section 17-2-4.2 NMSA 1978 (being Laws 2001,  
20 Chapter 66, Section 2) is amended to read:

21 "17-2-4.2. AMPHIBIANS AND REPTILES--PROTECTED--  
22 PERMITS--UNLAWFUL TAKING--MISDEMEANOR--PENALTIES.--

23 A. All species, except for those collected in  
24 rattlesnake roundups, for fish bait or for lizard races, of  
25 native, free-ranging amphibians and reptiles are hereby

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1 classified as protected nongame animals for commercial taking  
2 purposes. The commercial taking or capturing of native, free-  
3 ranging amphibians and reptiles is prohibited except by a  
4 permit issued by the [~~state game commission~~] game and fish  
5 division of the energy, minerals and natural resources  
6 department.

7 B. The [~~state game commission~~] game and fish division  
8 shall adopt rules necessary to administer Paragraph (14) of  
9 Subsection A of Section 17-1-14 NMSA 1978 and this section to  
10 assure that viable populations of native, free-ranging  
11 amphibians and reptiles are maintained in the state.

12 C. If the [~~state game commission~~] game and fish  
13 division determines that it will offer permits to take or  
14 capture native, free-ranging amphibians or reptiles, the  
15 [~~commission~~] division shall adopt a rule listing protected  
16 native, free-ranging amphibians and reptiles that may be taken  
17 or captured after taking into consideration any criteria that  
18 can be shown to have an effect from commercial takings on the  
19 viability of the species population in the state.

20 D. Unlawful taking of a native, free-ranging  
21 amphibian or reptile consists of intentionally taking or  
22 capturing, for commercial purposes, a regulated native, free-  
23 ranging amphibian or reptile without a valid permit from the  
24 [~~state game commission~~] game and fish division.

25 E. Amphibians and reptiles may be removed, captured

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1 or destroyed without a permit, by any person, in emergency  
2 situations involving an immediate threat to human life or  
3 private property.

4 F. Whoever commits unlawful taking of a native, free-  
5 ranging amphibian or reptile is guilty of a misdemeanor and  
6 shall be fined not less than fifty dollars (\$50.00) per  
7 occurrence and not more than one thousand dollars (\$1,000) per  
8 occurrence or be imprisoned for not more than one year or both.

9 G. As referred to in this section, "taking" means the  
10 act of seizing amphibians or reptiles for a commercial  
11 purpose."

12 SECTION 30. Section 17-2-7 NMSA 1978 (being Laws 1931,  
13 Chapter 117, Section 8, as amended) is amended to read:

14 "17-2-7. UNLAWFUL HUNTING OR FISHING.--

15 A. Except as permitted by [~~regulations~~] rules adopted  
16 by the [~~state game commission~~] game and fish division of the  
17 energy, minerals and natural resources department or as  
18 otherwise allowed by law, it is unlawful to:

19 (1) hunt, take, capture, kill or attempt to  
20 take, capture or kill, at any time or in any manner, any game  
21 animal, game bird or game fish in the state; or

22 (2) possess, offer for sale, sell, offer to  
23 purchase or purchase in the state all or any part of any game  
24 animal, game bird or game fish.

25 B. Notwithstanding any other law, the owner of

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1 domestic livestock in this state or [~~his~~] the owner's regular  
2 employee may hunt, take, capture or kill any cougar or bear  
3 [~~which~~] that has killed domestic livestock. The owner of  
4 livestock or [~~his~~] the owner's regular employee who takes  
5 action under this provision [~~will~~] shall report this action to  
6 the [~~department of~~] game and fish [~~who will~~] division, which  
7 shall verify the necessity of the action taken.

8 C. Violation of this section is a misdemeanor and  
9 shall be punished as provided in Section 17-2-10 NMSA 1978.

10 D. The provisions of this section shall not be deemed  
11 to prohibit the possession of game animals, birds or fish taken  
12 legally in any other jurisdiction."

13 SECTION 31. Section 17-2-7.1 NMSA 1978 (being Laws 1993,  
14 Chapter 94, Section 1) is amended to read:

15 "17-2-7.1. INTERFERENCE PROHIBITED--CRIMINAL PENALTIES--  
16 CIVIL PENALTIES--REVOCAION OF LICENSE, CERTIFICATE OR  
17 PERMIT.--

18 A. It is unlawful for a person to commit interference  
19 with another person who is lawfully hunting, trapping or  
20 fishing in an area where hunting, trapping or fishing is  
21 permitted by a custodian of public property or an owner or  
22 lessee of private property.

23 B. A person who commits a:

24 (1) first offense of interference is guilty of a  
25 petty misdemeanor and shall be sentenced pursuant to the

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1 provisions of Section 31-19-1 NMSA 1978; and

2 (2) second or subsequent offense of interference  
3 is guilty of a misdemeanor and shall be sentenced pursuant to  
4 the provisions of Section 31-19-1 NMSA 1978.

5 C. When a person who commits interference possesses a  
6 license, certificate or permit issued to ~~[him]~~ the person by  
7 the ~~[state game commission]~~ game and fish division of the  
8 energy, minerals and natural resources department, the license,  
9 certificate or permit shall be subject to revocation by the  
10 ~~[commission]~~ division pursuant to the provisions of Sections  
11 17-1-14 and 17-3-34 NMSA 1978.

12 D. As used in this section, "interference" means:

13 (1) intentionally placing oneself in a location  
14 where a human presence may affect the behavior of a game  
15 animal, bird or fish or the feasibility of killing or taking a  
16 game animal, bird or fish with the intent of interfering with  
17 or harassing another person who is lawfully hunting, trapping  
18 or fishing;

19 (2) intentionally creating a visual, aural,  
20 olfactory or physical stimulus for the purpose of affecting the  
21 behavior of a game animal, bird or fish with the intent of  
22 interfering with or harassing another person who is lawfully  
23 hunting, trapping or fishing; or

24 (3) intentionally affecting the condition or  
25 altering the placement of personal property used for the

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1 purpose of killing or taking a game animal, bird or fish.

2 E. Nothing in this section shall be construed to  
3 include a farmer or rancher in pursuit of [~~his~~] normal farm or  
4 ranch operation or a law enforcement officer in pursuit of  
5 [~~his~~] official duties."

6 SECTION 32. Section 17-2-7.2 NMSA 1978 (being Laws 1997,  
7 Chapter 224, Section 3) is amended to read:

8 "17-2-7.2. LANDOWNER TAKING--CONDITIONS--~~[DEPARTMENT]~~  
9 DIVISION RESPONSIBILITIES.--

10 A. A landowner or lessee, or an employee of either,  
11 may take or kill an animal on private land, in which [~~they~~  
12 ~~have~~] the landowner or lessee has an ownership or leasehold  
13 interest, including game animals and other quadrupeds, game  
14 birds and fowl, that presents an immediate threat to human life  
15 or an immediate threat of damage to property, including crops;  
16 provided, however, that the taking or killing is reported to  
17 the [~~department of game and fish~~] division within twenty-four  
18 hours and before the removal of the carcass of the animal  
19 killed, in accordance with [~~regulations~~] rules adopted by the  
20 [~~commission~~] division.

21 B. A landowner or lessee, or an employee of either,  
22 may take or kill animals on private land, in which [~~they have~~]  
23 the landowner or lessee has an ownership or leasehold interest,  
24 including game animals and other quadrupeds, game birds and  
25 fowl, that present a threat to human life or damage to

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1 property, including crops, according to [~~regulations~~] rules  
2 adopted by the [~~commission~~] division. The [~~regulations~~] rules  
3 shall:

4 (1) provide a method for filing a complaint to  
5 the [~~department~~] division by the landowner or lessee, or an  
6 employee of either of them, of the existence of a depredation  
7 problem;

8 (2) provide for various [~~departmental~~]  
9 interventions by the division, depending upon the type of  
10 animal and depredation;

11 (3) require the [~~department~~] division to offer  
12 at least three different interventions, if practical;

13 (4) require the [~~department~~] division to respond  
14 to the initial and any subsequent complaints within ten days  
15 with an intervention response to the complaint and to carry out  
16 the intervention, if agreed upon between the [~~department~~]  
17 division and the landowner, within five days of that agreement;

18 (5) permit the landowner or lessee to reject for  
19 good cause the interventions offered by the [~~department~~]  
20 division;

21 (6) require a landowner or lessee to demonstrate  
22 that the property depredation is greater in value than the  
23 value of any wildlife-related income or fee collected by the  
24 landowner or lessee for permission to take or kill an animal of  
25 the same species on the private property or portion of the

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1 private property identified in the complaint as the location  
2 where the depredation occurred; and

3 (7) permit the landowner, lessee or employee,  
4 when interventions by the [~~department~~] division have not been  
5 successful and after one year from the date of the filing of  
6 the initial complaint, to kill or take an animal believed  
7 responsible for property depredation.

8 C. For purposes of this section:

9 [~~(1) "commission" means the state game~~  
10 ~~commission;~~

11 [~~(2) "department"~~] (1) "division" means the  
12 [~~department of~~] game and fish division of the energy, minerals  
13 and natural resources department; and

14 [~~(3)~~] (2) "intervention" means a solution  
15 proposed by the [~~department~~] division to eliminate the  
16 depredation."

17 SECTION 33. Section 17-2-8 NMSA 1978 (being Laws 1977,  
18 Chapter 70, Section 1) is amended to read:

19 "17-2-8. WASTE OF GAME.--It is unlawful for any person:

20 A. who hunts or fishes and takes any game mammal  
21 designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of  
22 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978,  
23 any game bird or any game fish to fail to transport the edible  
24 portions of the meat obtained to [~~his~~] the person's home for  
25 human consumption or to provide for the human consumption

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1       thereof under any [~~commission regulations~~] rules of the game  
2       and fish division of the energy, minerals and natural resources  
3       department pertaining to exportation, transportation and  
4       donation of game; or

5               B. who wounds or may have wounded any game mammal  
6       designated in [~~Paragraphs~~] Paragraph (2), (3) or (4) of  
7       Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978 to  
8       fail to go to the place where the mammal sustained or may have  
9       sustained the wound and make a reasonable attempt to track the  
10       mammal and reduce it to possession."

11               SECTION 34. Section 17-2-9 NMSA 1978 (being Laws 1931,  
12       Chapter 117, Section 9, as amended) is amended to read:

13               "17-2-9. JURISDICTION OF MAGISTRATE COURT.--The  
14       magistrate court has jurisdiction in all cases arising under  
15       Chapter [~~53-NMSA-1953~~] 17 NMSA 1978 and [~~regulations~~] rules  
16       promulgated by the [~~state game commission~~] game and fish  
17       division of the energy, minerals and natural resources  
18       department. In addition to other jurisdiction, a magistrate  
19       has jurisdiction over such cases arising in any magistrate  
20       district adjoining at any point that in which [~~he~~] the  
21       magistrate serves, with the consent of the accused."

22               SECTION 35. Section 17-2-10 NMSA 1978 (being Laws 1931,  
23       Chapter 117, Section 7, as amended) is amended to read:

24               "17-2-10. VIOLATION OF GAME AND FISH LAWS OR  
25       [~~REGULATIONS~~] RULES--PENALTIES.--

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1           A. ~~[Any]~~ A person violating any of the provisions of  
2 Chapter 17 NMSA 1978 or any ~~[regulations]~~ rules adopted by the  
3 ~~[state game commission]~~ game and fish division of the energy,  
4 minerals and natural resources department that relate to the  
5 time, extent, means or manner that game animals, birds or fish  
6 may be hunted, taken, captured, killed, possessed, sold,  
7 purchased or shipped is guilty of a misdemeanor and upon  
8 conviction may be sentenced to imprisonment in the county jail  
9 for a term not to exceed six months. In addition, the person  
10 shall be sentenced to the payment of a fine in accordance with  
11 the following schedule:

12                   (1) for illegally taking, attempting to take,  
13 killing, capturing or possessing of each deer, antelope,  
14 javelina, bear or cougar during a closed season, a fine of four  
15 hundred dollars (\$400);

16                   (2) for illegally taking, attempting to take,  
17 killing, capturing or possessing of each elk, bighorn sheep,  
18 oryx, ibex or Barbary sheep, a fine of one thousand dollars  
19 (\$1,000);

20                   (3) for hunting big game without a proper and  
21 valid license, lawfully procured, a fine of one hundred dollars  
22 (\$100);

23                   (4) for exceeding the bag limit of any big game  
24 species, a fine of four hundred dollars (\$400);

25                   (5) for attempting to exceed the bag limit of

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1 any big game species by the hunting of any big game animal  
2 after having tagged a similar big game species, a fine of two  
3 hundred dollars (\$200);

4 (6) for signing a false statement to procure a  
5 resident hunting or fishing license when the applicant is  
6 residing in another state at the time of application for a  
7 license, a fine of four hundred dollars (\$400);

8 (7) for using a hunting or fishing license  
9 issued to another person, a fine of one hundred dollars (\$100);

10 (8) for a violation of Section 17-2-31 NMSA  
11 1978, a fine of three hundred dollars (\$300);

12 (9) for selling, offering for sale, offering to  
13 purchase or purchasing any big game animal, unless otherwise  
14 provided by Chapter 17 NMSA 1978, a fine of one thousand  
15 dollars (\$1,000);

16 (10) for illegally taking, attempting to take,  
17 killing, capturing or possessing of each jaguar, a fine of two  
18 thousand dollars (\$2,000); and

19 (11) for a violation of the provisions of  
20 Subsection A of Section 17-2A-3 NMSA 1978, a fine of five  
21 hundred dollars (\$500).

22 B. A person convicted a second time for violating any  
23 of the provisions of Chapter 17 NMSA 1978 or any [~~regulations~~]  
24 rules adopted by the [~~state game commission~~] game and fish  
25 division that relate to the time, extent, means or manner that

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1 game animals, birds or fish may be hunted, taken, captured,  
2 killed, possessed, sold, purchased or shipped is guilty of a  
3 misdemeanor and upon conviction may be sentenced to  
4 imprisonment in the county jail for a term of not more than  
5 three hundred sixty-four days. In addition, the person shall  
6 be sentenced to the payment of a fine in accordance with the  
7 following schedule:

8 (1) for illegally taking, attempting to take,  
9 killing, capturing or possessing of each deer, antelope,  
10 javelina, bear or cougar during a closed season, a fine of six  
11 hundred dollars (\$600);

12 (2) for illegally taking, attempting to take,  
13 killing, capturing or possessing of each elk, bighorn sheep,  
14 oryx, ibex or Barbary sheep, a fine of one thousand five  
15 hundred dollars (\$1,500);

16 (3) for hunting big game without a proper and  
17 valid license, lawfully procured, a fine of four hundred  
18 dollars (\$400);

19 (4) for exceeding the bag limit of any big game  
20 species, a fine of six hundred dollars (\$600);

21 (5) for attempting to exceed the bag limit of  
22 any big game species by the hunting of any big game animal  
23 after having tagged a similar big game species, a fine of six  
24 hundred dollars (\$600);

25 (6) for signing a false statement to procure a

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1 resident hunting or fishing license when the applicant is  
2 residing in another state at the time of application for a  
3 license, a fine of six hundred dollars (\$600);

4 (7) for using a hunting or fishing license  
5 issued to another person, a fine of two hundred fifty dollars  
6 (\$250);

7 (8) for a violation of Section 17-2-31 NMSA  
8 1978, a fine of five hundred dollars (\$500);

9 (9) for selling, offering for sale, offering to  
10 purchase or purchasing any big game animal, unless otherwise  
11 provided by Chapter 17 NMSA 1978, a fine of one thousand five  
12 hundred dollars (\$1,500);

13 (10) for illegally taking, attempting to take,  
14 killing, capturing or possessing of each jaguar, a fine of four  
15 thousand dollars (\$4,000); and

16 (11) for a violation of the provisions of  
17 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one  
18 thousand dollars (\$1,000).

19 C. Notwithstanding the provisions of Section 31-18-13  
20 NMSA 1978, a person convicted a third or subsequent time for  
21 violating any of the provisions of Chapter 17 NMSA 1978 or any  
22 [~~regulations~~] rules adopted by the [~~state game commission~~] game  
23 and fish division that relate to the time, extent, means or  
24 manner that game animals, birds or fish may be hunted, taken,  
25 captured, killed, possessed, sold, purchased or shipped is

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1 guilty of a misdemeanor and upon conviction may be sentenced to  
2 imprisonment in the county jail for a term of not less than  
3 ninety days, which shall not be suspended or deferred, and not  
4 more than three hundred sixty-four days. In addition, the  
5 person shall be sentenced to the payment of a fine in  
6 accordance with the following schedule:

7 (1) for illegally taking, attempting to take,  
8 killing, capturing or possessing of each deer, antelope,  
9 javelina, bear or cougar during a closed season, a fine of one  
10 thousand two hundred dollars (\$1,200);

11 (2) for illegally taking, attempting to take,  
12 killing, capturing or possessing of each elk, bighorn sheep,  
13 oryx, ibex or Barbary sheep, a fine of three thousand dollars  
14 (\$3,000);

15 (3) for hunting big game without a proper and  
16 valid license, lawfully procured, a fine of one thousand  
17 dollars (\$1,000);

18 (4) for exceeding the bag limit of any big game  
19 species, a fine of one thousand two hundred dollars (\$1,200);

20 (5) for attempting to exceed the bag limit of  
21 any big game species by the hunting of any big game animal  
22 after having tagged a similar big game species, a fine of one  
23 thousand dollars (\$1,000);

24 (6) for signing a false statement to procure a  
25 resident hunting or fishing license when the applicant is

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1 residing in another state at the time of application for a  
2 license, a fine of one thousand two hundred dollars (\$1,200);

3 (7) for using a hunting or fishing license  
4 issued to another person, a fine of one thousand dollars  
5 (\$1,000);

6 (8) for a violation of Section 17-2-31 NMSA  
7 1978, a fine of one thousand dollars (\$1,000);

8 (9) for selling, offering for sale, offering to  
9 purchase or purchasing any big game animal, unless otherwise  
10 provided by Chapter 17 NMSA 1978, a fine of three thousand  
11 dollars (\$3,000);

12 (10) for illegally taking, attempting to take,  
13 killing, capturing or possessing of each jaguar, a fine of six  
14 thousand dollars (\$6,000); and

15 (11) for a violation of the provisions of  
16 Subsection A of Section 17-2A-3 NMSA 1978, a fine of two  
17 thousand dollars (\$2,000).

18 D. ~~[Any]~~ A person who is convicted of a violation of  
19 any ~~[regulations]~~ rules adopted by the ~~[state game commission]~~  
20 game and fish division that relate to the time, extent, means  
21 or manner that game animals, birds or fish may be hunted,  
22 taken, captured, killed, possessed, sold, purchased or shipped  
23 or of a violation of any of the provisions of Chapter 17 NMSA  
24 1978, for which a punishment is not set forth under this  
25 section, shall be fined not less than fifty dollars (\$50.00) or

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1 more than five hundred dollars (\$500) or imprisoned not more  
2 than six months or both.

3 E. The provisions of this section shall not be  
4 interpreted to prevent, constrain or penalize a Native American  
5 for engaging in activities for religious purposes, as provided  
6 in Section 17-2-14 or 17-2-41 NMSA 1978.

7 F. The provisions of this section shall not apply to  
8 a landowner or lessee, or an employee of either of them, who  
9 kills an animal on private land, in which they have an  
10 ownership or leasehold interest, that is threatening human life  
11 or damaging or destroying property, including crops; provided,  
12 however, that the killing is reported to the [~~department of~~]  
13 game and fish division within twenty-four hours and before the  
14 removal of the carcass of the animal killed; and provided  
15 further that all actions authorized in this subsection are  
16 carried out according to [~~regulations~~] rules of the  
17 [~~department~~] division."

18 SECTION 36. Section 17-2-10.1 NMSA 1978 (being Laws 1995,  
19 Chapter 177, Section 1) is amended to read:

20 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT  
21 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

22 A. As used in Chapter 17 NMSA 1978, "penalty  
23 assessment misdemeanor" means a violation of any of the  
24 following listed sections of the NMSA 1978 for which the listed  
25 penalty assessment is established:

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1	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
2	Fishing without a license	17-3-17	\$ 75.00
3	Hunting small game without		
4	a license	17-3-1	\$100.00.

5           B. When an alleged violator of a penalty assessment  
6 misdemeanor elects to accept a notice to appear in lieu of a  
7 notice of penalty assessment, no fine imposed upon later  
8 conviction shall exceed the penalty assessment established for  
9 the particular penalty assessment misdemeanor.

10           C. With the penalty assessment collected for each  
11 penalty assessment misdemeanor pursuant to this section, there  
12 shall be assessed and collected the cost of the appropriate  
13 license that the violator failed to produce. Upon presentation  
14 of proof of payment of the penalty assessment, the director of  
15 the [~~department of~~] game and fish division of the energy,  
16 minerals and natural resources department shall issue the  
17 appropriate license."

18           SECTION 37. Section 17-2-10.2 NMSA 1978 (being Laws 1995,  
19 Chapter 177, Section 2) is amended to read:

20           "17-2-10.2. GAME AND FISH PENALTY ASSESSMENT--PAYMENT.--

21           A. Unless a warning notice is given to an alleged  
22 violator, at the time the alleged violator is charged with a  
23 penalty assessment misdemeanor, the conservation officer shall  
24 offer the alleged violator the option of accepting a penalty  
25 assessment. The signature of the alleged violator on the

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1 penalty assessment notice constitutes an acknowledgment of  
2 guilt of the offense stated in the notice. The acknowledgment  
3 shall be included in accrual of points toward revocation of  
4 licenses as provided for in Section 17-3-34 NMSA 1978 or in  
5 [~~regulations~~] rules adopted to implement that section.

6 B. Payment of [~~any~~] a penalty assessment, including  
7 cost of the appropriate license, shall be mailed to the [~~state~~  
8 ~~game commission~~] game and fish division of the energy, minerals  
9 and natural resources department within thirty days from the  
10 date of charge. Payment of penalty assessments are timely if  
11 postmarked within thirty days from the date of the charge. The  
12 [~~commission~~] division may issue a receipt when a penalty  
13 assessment is paid by currency, but checks tendered by the  
14 violator upon which payment is received are sufficient receipt.

15 C. No record of [~~any~~] a penalty assessment payment is  
16 admissible as evidence in court in [~~any~~] a civil action."

17 **SECTION 38.** Section 17-2-10.3 NMSA 1978 (being Laws 1995,  
18 Chapter 177, Section 3) is amended to read:

19 "17-2-10.3. GAME AND FISH PENALTY ASSESSMENT--LICENSE  
20 REVOCATION.--

21 A. The [~~state game commission~~] game and fish division  
22 of the energy, minerals and natural resources department is  
23 authorized to revoke the hunting or fishing license, or both,  
24 of a person who fails to pay a penalty assessment or who fails  
25 to appear, after proper notice, for hearings as required by law

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1 or [~~regulation~~] rule.

2 B. The [~~state game commission~~] game and fish division  
3 may revoke the hunting or fishing license, or both, of any  
4 person, resident or nonresident, who is convicted in another  
5 state of any single offense that, if committed in New Mexico,  
6 would be grounds for revocation of license."

7 SECTION 39. Section 17-2-11 NMSA 1978 (being Laws 1912,  
8 Chapter 85, Section 40, as amended) is amended to read:

9 "17-2-11. [~~GAME--FISH~~] PROSECUTIONS--~~[ACCOMPLICES MAY~~  
10 ~~TESTIFY--EVIDENCE]~~ ACCOMPLICE TESTIMONY--IMMUNITY.--[SEC. 40.]

11 In any prosecution under [~~this~~] Chapter 17 NMSA 1978, any  
12 participant in a violation thereof, when so requested by the  
13 district attorney, [~~State Warden~~] director of the game and fish  
14 division of the energy, minerals and natural resources  
15 department or other officer instituting the prosecution, may  
16 testify as a witness against any other person charged with  
17 violating the same, and [~~his~~] the accomplice's evidence so  
18 given shall not be used against [~~him~~] the accomplice in any  
19 prosecution for [~~such~~] that violation."

20 SECTION 40. Section 17-2-12 NMSA 1978 (being Laws 1937,  
21 Chapter 23, Section 3, as amended) is amended to read:

22 "17-2-12. REFUGES--FIREARMS [~~ON~~] PROHIBITED--  
23 EXCEPTIONS.--It is unlawful for any person to carry, transport  
24 or have in [~~his~~] the person's possession bows, arrows,  
25 crossbows or firearms of any kind or description within or upon

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1 any game refuge or to discharge any firearm or arrow into or  
2 within any state game refuge in New Mexico; provided that this  
3 section shall not apply to any county, state or federal officer  
4 in the discharge of [~~his~~] official duties [~~nor~~] or to persons  
5 crossing refuges over public roads and trails with firearms  
6 unloaded or taken down; and provided further that permits may  
7 be issued by the director of the game and fish division of the  
8 energy, minerals and natural resources department to stockmen,  
9 trappers, ranchers and property owners, or their employees, to  
10 carry firearms while engaged in the discharge of their  
11 legitimate affairs on or within game refuges."

12 SECTION 41. Section 17-2-13 NMSA 1978 (being Laws 1912,  
13 Chapter 85, Section 55, as amended) is amended to read:

14 "17-2-13. SONGBIRDS--TRAPPING, KILLING OR INJURING  
15 PROHIBITED.--It [~~shall be~~] is unlawful for any person to shoot,  
16 ensnare or trap for the purpose of killing or in any other  
17 manner to injure or destroy any songbird or birds whose  
18 principal food consists of insects, comprising all the species  
19 and varieties of birds represented by the several families of  
20 bluebirds, including the western and mountain bluebirds; also  
21 bobolinks, catbirds, chickadees, cuckoos, which includes the  
22 chaparral bird or roadrunner (*Geococcyx novo mexicanus*),  
23 flickers, flycatchers, grosbeaks, hummingbirds, kinglets,  
24 martins, meadowlarks, nighthawks or bull bats, nuthatches,  
25 orioles, robins, shrikes, swallows, swifts, tanagers, titmice,

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1 thrushes, vireos, warblers, waxwings, [~~whippoorwills~~]  
2 whippoorwills, woodpeckers, wrens and all other perching birds  
3 [~~which~~] that feed entirely or chiefly on insects. This section  
4 does not prohibit the killing of such birds for scientific  
5 purposes under permits from the [~~department of~~] game and fish  
6 division of the energy, minerals and natural resources  
7 department."

8 SECTION 42. Section 17-2-14 NMSA 1978 (being Laws 1973,  
9 Chapter 104, Section 1, as amended) is amended to read:

10 "17-2-14. HAWKS, VULTURES AND OWLS--TAKING, POSSESSING,  
11 TRAPPING, DESTROYING, MAIMING OR SELLING PROHIBITED--EXCEPTION  
12 BY PERMIT--PENALTY.--

13 A. It is unlawful for any person to take, attempt to  
14 take, possess, trap or ensnare or in any manner to injure, maim  
15 or destroy birds of the order Falconiformes, comprising all of  
16 the species and varieties of birds represented by the several  
17 families of vultures and hawks, and all of the order  
18 Stringiformes, comprising all of the species and varieties of  
19 owls. It is also unlawful to purchase, sell or trade, or to  
20 possess for the purpose of selling or trading, any parts of  
21 these birds.

22 B. The director of the [~~department of~~] game and fish  
23 division of the energy, minerals and natural resources  
24 department may issue permits to allow any person to take,  
25 possess, trap, ensnare or destroy any bird protected by this

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1 section or to possess, give, purchase, sell or trade, or to  
2 possess for the purpose of selling or trading, any parts of any  
3 birds protected by this section. Permits shall be granted for  
4 the following purposes:

5 (1) Indian religious purposes;

6 (2) scientific purposes in accordance with law  
7 and the [~~regulations~~] rules of the [~~department of~~] game and  
8 fish division; or

9 (3) falconry purposes in accordance with law and  
10 the [~~regulations~~] rules of the [~~department~~] division.

11 C. Notwithstanding any other law, any person engaged  
12 in the commercial raising of poultry or game birds may take,  
13 capture or kill any hawk, owl or vulture that has killed such  
14 poultry or game birds. The owner of [~~such~~] a game or poultry  
15 farm who takes action under this provision shall report this  
16 action to the [~~department of~~] game and fish division, which  
17 shall verify the necessity of the action taken.

18 D. Any person violating the provisions of this  
19 section is guilty of a petty misdemeanor."

20 SECTION 43. Section 17-2-17 NMSA 1978 (being Laws 1912,  
21 Chapter 85, Section 26, as amended) is amended to read:

22 "17-2-17. GAME AND FISH--[~~HELD IN~~] STORAGE [~~WHEN~~  
23 ~~LAWFUL~~].--[~~SEC. 26.~~] No game or fish shall be received or held  
24 in storage except as follows [~~namely~~]:

25 [(1)] A. during the open season [~~therefor~~] for such

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1 game and fish and for five days thereafter when the [~~same~~] game  
2 or fish is stored for the person lawfully in possession of [~~the~~  
3 ~~same~~] it;

4 [(2)] B. at any time of the year when there is  
5 attached [~~thereto~~] to the game or fish a proper and valid  
6 officer's invoice as provided in [~~this~~] Chapter 17 NMSA 1978  
7 relating to the seizure of game and fish, for not more than  
8 thirty days after the date of [~~such~~] that invoice; or

9 [(3)] C. when there is attached [~~thereto~~] to the game  
10 or fish a proper and valid certificate or permit signed by the  
11 [~~State Warden or deputy~~] director of the game and fish division  
12 of the energy, minerals and natural resources department or  
13 conservation officer and on its face authorizing storage of the  
14 [~~article named therein~~] game or fish listed in the certificate  
15 or permit and during the period [~~therein stated~~] listed on the  
16 certificate or permit."

17 SECTION 44. Section 17-2-19 NMSA 1978 (being Laws 1912,  
18 Chapter 85, Section 57, as amended) is amended to read:

19 "17-2-19. ENFORCEMENT OF GAME LAWS--POWERS OF  
20 CONSERVATION OFFICERS.--

21 A. The director of the [~~department of~~] game and fish  
22 division of the energy, minerals and natural resources  
23 department, each conservation officer, each sheriff in [~~his~~]  
24 the sheriff's respective county and each member of the New  
25 Mexico state police shall enforce Chapter 17 NMSA 1978 and

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1 shall:

2 (1) seize any game or fish held in violation of  
3 that chapter;

4 (2) with or without warrant, arrest any person  
5 whom ~~[he]~~ the director, conservation officer, sheriff or state  
6 police officer knows to be guilty of a violation of that  
7 chapter; and

8 (3) open, enter and examine all camps, wagons,  
9 cars, tents, packs, boxes, barrels and packages where ~~[he has]~~  
10 there is reason to believe any game or fish taken or held in  
11 violation of that chapter is to be found, and seize it.

12 B. Any warrant for the arrest of a person shall be  
13 issued upon sworn complaint, the same as in other criminal  
14 cases, and any search warrant shall issue upon a written  
15 showing of probable cause, supported by oath or affirmation,  
16 describing the places to be searched or the persons or things  
17 to be seized.

18 C. Conservation officers may, under the direction of  
19 the ~~[state game commission and the]~~ director of the ~~[department~~  
20 ~~of]~~ game and fish division:

21 (1) establish ~~[from time to time, as needed for~~  
22 ~~the proper functioning of the game and fish research and~~  
23 ~~management division]~~ checking stations at points along  
24 established roads, or roadblocks, for the purpose of collecting  
25 biological information or detecting and apprehending persons

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1 violating the game and fish laws and the [~~regulations~~] rules  
2 referred to in Section 17-2-10 NMSA 1978;

3 (2) under emergency circumstances and while on  
4 official duty only enforce the provisions of the Criminal Code  
5 and the Motor Vehicle Code; and

6 (3) while on official duty only, enforce the  
7 provisions of:

8 (a) Sections 30-14-1 and 30-14-1.1  
9 NMSA 1978 pertaining to criminal trespass;

10 (b) Section 30-7-4 NMSA 1978 pertaining to  
11 negligent use of a deadly weapon;

12 (c) Section 30-15-1 NMSA 1978 pertaining to  
13 criminal damage to property;

14 (d) Section 30-22-1 NMSA 1978 pertaining to  
15 resisting, evading or obstructing an officer; and

16 (e) Section 72-1-8 NMSA 1978 pertaining to  
17 camping next to a manmade water hole."

18 SECTION 45. Section 17-2-20 NMSA 1978 (being Laws 1912,  
19 Chapter 85, Section 31, as amended) is amended to read:

20 "17-2-20. [~~PUBLIC NUISANCE--NETS, TRAPS, EXPLOSIVES--WHEN~~  
21 ~~DEEMED TO BE--PROVISO~~] UNLAWFUL DEVICES--SEIZURE AND  
22 DESTRUCTION.--[SEC. 31.] Every net, trap, explosive, poisonous  
23 or stupefying substance or device used or intended for use in  
24 taking or killing game or fish in violation of [~~this~~] Chapter  
25 17 NMSA 1978 and set, kept or found in or upon any of the

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1 streams or waters in this state or upon the shores thereof, and  
2 every trap, device, blind or deadfall found baited in violation  
3 of [~~this~~] that chapter, is declared to be a public nuisance and  
4 may be abated and summarily destroyed by any person [~~and~~]. It  
5 [~~shall be~~] is the duty of every officer authorized to enforce  
6 [~~this~~] that chapter to seize and summarily destroy the same,  
7 and no prosecution or suit shall be maintained for such  
8 destruction; provided that nothing in [~~this~~] that chapter shall  
9 be construed as affecting the right of the [~~State Warden~~]  
10 director of the game and fish division of the energy, minerals  
11 and natural resources department to use such means as may be  
12 proper for the promotion of game and fish propagation and  
13 culture [~~nor~~] or as authorizing the seizure or destruction of  
14 firearms."

15 SECTION 46. Section 17-2-20.3 NMSA 1978 (being Laws 1979,  
16 Chapter 321, Section 3) is amended to read:

17 "17-2-20.3. PENALTIES.--The following violations [~~shall~~]  
18 constitute a misdemeanor:

19 A. illegal possession or transportation of big game  
20 during closed season;

21 B. taking or attempting to take big game during  
22 closed season;

23 C. taking or attempting to take big game by the use  
24 of spotlight or artificial light;

25 D. selling or attempting to sell big game or parts

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1       thereof, except as permitted by [~~regulation~~] rules of the  
2       [~~state game commission~~] game and fish division of the energy,  
3       minerals and natural resources department; and

4               E. exceeding the bag limit on any big game species  
5       during open season."

6               SECTION 47. Section 17-2-21 NMSA 1978 (being Laws 1912,  
7       Chapter 85, Section 23, as amended) is amended to read:

8               "17-2-21. GAME AND FISH--SEIZED BY OFFICERS--DISPOSAL  
9       [~~OF~~]--PROCEEDS.--[~~SEC. 23.~~] All game and fish seized under the  
10       game laws shall without unnecessary delay be sold by the  
11       officer making [~~such~~] the seizure or by the [~~State Warden~~]  
12       director of the game and fish division of the energy, minerals  
13       and natural resources department, except when such sale is  
14       impracticable or likely to incur expenses exceeding the  
15       proceeds, in which case the [~~same~~] game or fish shall be  
16       donated to some charitable institution or needy person not  
17       concerned in the unlawful killing or possession thereof. The  
18       officer making [~~such~~] the seizure shall sign and give to each  
19       purchaser or donee an invoice stating the time and place of  
20       disposition, the kind and weight as near as may be of the game  
21       or fish disposed of and the name of the purchaser or donee.  
22       [~~Such~~] The invoice [~~shall authorize~~] authorizes possession,  
23       transportation and use within the state and storage for thirty  
24       days from date. The proceeds from [~~such~~] the sale, after  
25       deducting the cost of seizure and sale, shall, if made by the

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1     ~~[State Warden]~~ director of the division or any ~~[deputy]~~  
2     conservation officer under salary, be paid into the game  
3     protection fund, but if made by a ~~[deputy warden]~~ conservation  
4     officer not under salary, or any other officer, the proceeds  
5     shall be paid one-half to the officer making ~~[such]~~ the  
6     seizure."

7             **SECTION 48.** Section 17-2-26 NMSA 1978 (being Laws 1912,  
8     Chapter 85, Section 45, as amended) is amended to read:

9             "17-2-26. CIVIL LIABILITY.--

10            A. The director of the ~~[department of]~~ game and fish  
11     division of the energy, minerals and natural resources  
12     department, or any other officer charged with enforcement of  
13     the laws relating to game and fish if so directed by the  
14     director, may bring a civil action in the name of the state  
15     against any person unlawfully wounding or killing, or  
16     unlawfully in possession of, any game quadruped, bird or fish,  
17     or part thereof, and recover judgment for the following minimum  
18     sums as damages for the taking, killing or injuring:

19	for each elk-----	\$ 500.00
20	for each deer-----	250.00
21	for each antelope-----	250.00
22	for each mountain sheep-----	1,000.00
23	for each Barbary sheep-----	250.00
24	for each black bear-----	500.00
25	for each cougar-----	500.00

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1	for each bison-----	600.00
2	for each ibex-----	1,000.00
3	for each oryx-----	1,000.00
4	for each javelina-----	100.00
5	for each beaver-----	65.00
6	for each bird-----	20.00
7	for each fish-----	5.00
8	for each endangered species-----	500.00
9	for each raptor-----	200.00
10	for each turkey-----	150.00
11	for each jaguar-----	2,000.00.

12           B. Notwithstanding the provisions of Subsection A of  
13 this section, the [~~state game commission~~] game and fish  
14 division shall establish damages recoverable by civil judgment  
15 on a game animal, bird or fish designated to be a trophy animal  
16 by [~~commission~~] division rule.

17           C. Damages recovered pursuant to this section are  
18 intended to compensate the state for the loss of unique public  
19 resources and shall not be limited or reduced by the extent of  
20 fines assessed pursuant to any criminal statute. The  
21 [~~department of~~] game and fish division shall not award or issue  
22 a license, permit or certificate to a debtor owing damages  
23 pursuant to this section until the judgment has been paid in  
24 full to the [~~department~~] division.

25           D. No verdict or judgment recovered by the state in

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1 an action shall be for less than the sum fixed in this section.  
2 The action for damages may be joined with an action for  
3 possession, and recovery may be had for the possession as well  
4 as the damages.

5 E. The pendency or determination of an action for  
6 damages or payment of a judgment, or the pendency or  
7 determination of a criminal prosecution for the same taking,  
8 wounding, killing or possession, is not a bar to the other, nor  
9 does either affect the right of seizure under any other  
10 provision of the laws relating to game and fish.

11 F. The provisions of this section shall not be  
12 interpreted to prevent, constrain or penalize a Native American  
13 for engaging in activities for religious purposes, as provided  
14 in Section 17-2-14 or 17-2-41 NMSA 1978.

15 G. The provisions of this section shall not apply to  
16 a landowner or lessee, or employee of either, who kills an  
17 animal, on private land in which the person has an ownership or  
18 leasehold interest, that is threatening human life or damaging  
19 or destroying property, including crops; provided, however,  
20 that the killing is reported to the [~~department of~~] game and  
21 fish division within twenty-four hours and before the removal  
22 of the carcass of the animal killed; and provided further that  
23 all actions authorized in this subsection are carried out  
24 according to rules of the [~~department~~] division."

25 SECTION 49. Section 17-2-33 NMSA 1978 (being Laws 1971,

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1 Chapter 61, Section 2) is amended to read:

2 "17-2-33. USE OF FIREARMS BY MINORS.--

3 A. It is unlawful after April 1, 1972 for any person  
4 born after January 1, 1958 to hunt with or shoot a firearm,  
5 unless the person:

6 (1) [~~he~~] is supervised by a parent, legal  
7 guardian or a responsible adult designated by the parent or  
8 guardian; [~~or~~]

9 (2) [~~he~~] carries a certificate indicating that  
10 [~~he~~] the person has successfully completed the New Mexico  
11 hunter training course or the hunter training course of another  
12 state [~~which~~] that is approved by the [~~New Mexico department~~  
13 ~~of~~] game and fish division of the energy, minerals and natural  
14 resources department; or

15 (3) [~~he~~] is eighteen years of age or older.

16 B. It is unlawful after April 1, 1976 for any person  
17 under the age of eighteen years to hunt with or shoot a firearm  
18 unless [~~he~~] the person is carrying a certificate indicating  
19 that [~~he~~] the person has successfully completed the New Mexico  
20 hunter training course or a hunter training course of another  
21 state [~~which~~] that is approved by the [~~New Mexico department~~  
22 ~~of~~] game and fish division.

23 C. Any person violating the [~~provisions~~] provisions  
24 of this section is guilty of a petty misdemeanor."

25 SECTION 50. Section 17-2-34 NMSA 1978 (being Laws 1971,

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1 Chapter 61, Section 3) is amended to read:

2 "17-2-34. HUNTER TRAINING PROGRAM--INSTRUCTOR  
3 CERTIFICATION--CERTIFICATE OF COMPETENCY.--

4 A. The [~~department of~~] game and fish division of the  
5 energy, minerals and natural resources department shall provide  
6 a course of instruction in the safe handling of firearms for  
7 individuals interested in obtaining a certificate of competency  
8 in the safe handling of firearms. The [~~department~~] division  
9 may cooperate with the [~~superintendent~~] secretary of public  
10 [~~instruction~~] education or any reputable association or  
11 organization as determined by the [~~department~~] division and  
12 having as one of its objectives the promotion of safety in  
13 firearm handling.

14 B. The [~~department of~~] game and fish division shall  
15 prescribe the type of instruction and the qualifications of  
16 instructors and shall designate annually those persons  
17 qualified to give instruction in the safe handling of firearms.  
18 Persons designated by the [~~department of game and fish~~]  
19 division to be instructors are authorized to give the course of  
20 instruction in the safe handling of firearms to all interested  
21 persons. Upon the completion of the course and certification  
22 to the [~~department~~] division by the instructor, the  
23 [~~department~~] division shall cause to be issued, to the person  
24 instructed, a certificate of competency in the safe handling of  
25 firearms, which shall be valid unless revoked by the

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1     ~~[department of game and fish]~~ division for such cause as  
2     determined by ~~[regulation]~~ rule of the ~~[department]~~ division to  
3     be unsafe handling of a firearm.

4             C. The ~~[department of]~~ game and fish division shall  
5     promulgate rules ~~[and regulations]~~ to implement the provisions  
6     of the Hunter Training Act."

7             SECTION 51. Section 17-2-38 NMSA 1978 (being Laws 1974,  
8     Chapter 83, Section 2, as amended) is amended to read:

9             "17-2-38. DEFINITIONS.--As used in the Wildlife  
10     Conservation Act:

11             ~~[A. "commission" means the state game commission;~~

12             ~~B.]~~ A. "director" means the director of the  
13     ~~[department of game and fish]~~ division;

14             B. "division" means the game and fish division of the  
15     energy, minerals and natural resources department;

16             C. "ecosystem" means a system of living organisms and  
17     their environment;

18             D. "endangered species" means any species of fish or  
19     wildlife whose prospects of survival or recruitment within the  
20     state are in jeopardy due to any of the following factors:

21                     (1) the present or threatened destruction,  
22     modification or curtailment of its habitat;

23                     (2) overutilization for scientific, commercial  
24     or sporting purposes;

25                     (3) the effect of disease or predation;

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1                   (4) other natural or man-made factors affecting  
2 its prospects of survival or recruitment within the state; or

3                   (5) any combination of the foregoing factors.

4           The term may also include any species of fish or wildlife  
5 appearing on the United States list of endangered native and  
6 foreign fish and wildlife as set forth in Section 4 of the  
7 federal Endangered Species Act of 1973 as endangered species,  
8 provided that the [~~commission~~] division adopts those lists in  
9 whole or in part. The term shall not include any species  
10 covered by the provisions of 16 U.S.C. 1331 through 1340 (1971)  
11 and shall not include any species of the class insecta  
12 determined by the director to constitute a pest whose  
13 protection under the Wildlife Conservation Act would present an  
14 overwhelming and overriding risk to man;

15           E. "investigation" means a process pursuant to  
16 Subsections B through L of Section 17-2-40 NMSA 1978 undertaken  
17 whenever the [~~director~~] secretary suspects that a species may  
18 be threatened or endangered and [~~which~~] that consists of a  
19 formal review of existing data and studies and may include  
20 additional field research to determine whether a species is  
21 threatened or endangered;

22           F. "land or aquatic habitat interests" means  
23 interests in real property or water rights consisting of fee  
24 simple title, easements in perpetuity, time certain easements,  
25 long-term leases and short-term leases;

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1 G. "management" means the collection and application  
2 of biological information for the purposes of establishing and  
3 maintaining a congruous relationship between individuals within  
4 species and populations of wildlife and the carrying capacity  
5 of their habitat. The term includes the entire range of  
6 activities that constitutes a full scientific resource program  
7 [of], including [~~but not limited to~~] research, census, law  
8 enforcement, propagation, acquisition or maintenance of land or  
9 aquatic habitat interests appropriate for recovery of the  
10 species; improvement and maintenance, education and related  
11 activities; [~~or~~] and protection and regulated taking;

12 H. "recovery plan" means a designated program or  
13 methodology reasonably expected to lead to restoration and  
14 maintenance of a species and its habitat;

15 I. "peer review panel" means an advisory panel of  
16 scientists, each of whom possesses expertise relevant to the  
17 proposed investigation and at least one of whom is a wildlife  
18 biologist, convened to review the scientific methodology for  
19 collection and analysis of data by a researcher based on  
20 commonly accepted scientific peer review;

21 J. "secretary" means the secretary of energy,  
22 minerals and natural resources;

23 [~~J.~~] K. "species" means any species or subspecies;

24 [~~K.~~] L. "substantial public interest" means a  
25 nonfrivolous claim indicated by a broad-based expression of

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1 public concern;

2 [~~H.~~] M. "take" or "taking" means to harass, hunt,  
3 capture or kill any wildlife or attempt to do so;

4 [~~M.~~] N. "threatened species" means any species that  
5 is likely to become an endangered species within the  
6 foreseeable future throughout all or a significant portion of  
7 its range in New Mexico; the term may also include any species  
8 of fish or wildlife appearing on the United States list of  
9 endangered native and foreign fish and wildlife as set forth in  
10 Section 4 of the federal Endangered Species Act of 1973 as  
11 threatened species, provided that the [~~commission~~] division  
12 adopts the list in whole or in part; and

13 [~~N.~~] O. "wildlife" means any nondomestic mammal,  
14 bird, reptile, amphibian, fish, mollusk or crustacean or any  
15 part, egg or offspring or the dead body or parts thereof."

16 SECTION 52. Section 17-2-40 NMSA 1978 (being Laws 1974,  
17 Chapter 83, Section 4, as amended) is amended to read:

18 "17-2-40. BIENNIAL REVIEW--INVESTIGATIONS--  
19 RECOMMENDATIONS OF THE [~~DIRECTOR~~] SECRETARY--PROCEDURES.--

20 A. The secretary, in consultation with the director,  
21 shall conduct a biennial review of all species of wildlife  
22 named on the list required by Section 17-2-41 NMSA 1978. The  
23 [~~director~~] secretary may conduct investigations at any time of  
24 those other species of wildlife indigenous to the state that  
25 are suspected of being threatened or endangered in order to

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1 develop information relating to population, distribution,  
2 habitat needs, limiting factors and other biological and  
3 ecological data to determine [~~his~~] recommendations for listing  
4 or not listing a species and management measures and  
5 requirements necessary for [~~their~~] its survival. The  
6 [~~director~~] secretary shall also conduct, within a reasonable  
7 time, an investigation to support listing or delisting [~~of~~] a  
8 species based upon new evidence or [~~with the advice and consent~~  
9 ~~of the commission, based upon~~] substantial public interest.  
10 Upon completion of an investigation [~~or investigations, he~~],  
11 the secretary shall [~~make written recommendations to the~~  
12 ~~commission~~] determine whether to list or not list any unlisted  
13 species or to delist any listed species investigated. In  
14 conducting any investigation for new listing or delisting  
15 required or undertaken pursuant to this subsection, the  
16 [~~director~~] secretary shall comply with the procedures  
17 established in Subsections B through L of this section.  
18 Species listed as threatened or endangered on the state list  
19 through adoption of the United States list pursuant to  
20 Subsections D and M of Section 17-2-38 NMSA 1978 shall not be  
21 subject at the time of adoption to the listing procedures  
22 established in Subsections B through K of this section.

23 B. The secretary, in consultation with the director,  
24 shall select a researcher to conduct an investigation pursuant  
25 to Subsection A of this section and request the appointment of

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1 a peer review panel composed of one qualified individual from  
2 each of the four-year state universities to be appointed by the  
3 presidents of the respective universities. The peer review  
4 panel shall be requested to submit comments according to a  
5 schedule determined by the [~~director~~] secretary. The  
6 researcher shall submit [~~his~~] the research design to the peer  
7 review panel.

8 C. When additional field research is undertaken as  
9 part of an investigation, the peer review panel shall examine  
10 the proposed research design for methodology for collection and  
11 analysis of data. Upon receipt of the peer review panel's  
12 submitted comments, the researcher shall initiate the field  
13 research regarding the designated species.

14 D. To the extent practicable, as part of [~~his~~] the  
15 researcher's investigation, the researcher shall meet and  
16 consult with private landowners, lessees and land and resource  
17 managers who are or may be affected by or have information  
18 pertinent to the investigation.

19 E. When the researcher initiates [~~his~~] the  
20 investigation, the [~~director~~] secretary shall:

21 (1) create a public repository file in which  
22 copies of all documents filed with the [~~director~~] secretary  
23 pertaining to the investigation or a potential recovery plan,  
24 to be developed pursuant to Section 17-2-40.1 NMSA 1978,  
25 including all peer review comments, shall be maintained;

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1                   (2) mail a notice of the initiation of the  
2 investigation to federal and state agencies, local and tribal  
3 governments that are or may be affected by the results of the  
4 investigation and individuals and organizations that have  
5 requested notification of [~~department~~] division actions  
6 regarding threatened or endangered species;

7                   (3) notify the general public of the initiation  
8 of the investigation by information releases to the media in  
9 the area of the state affected;

10                   (4) indicate, in all notices and information  
11 releases, where and until what date information may be  
12 submitted for inclusion in the public repository file;

13                   (5) accept data, views or information about the  
14 biological or ecological status of the species for use in both  
15 the investigation and the development of the potential recovery  
16 plan; and

17                   (6) accept data, views and information on the  
18 potential economic or social impacts or opportunities of a  
19 change in the legal status of the species for inclusion in the  
20 recovery plan.

21                   F. The [~~director~~] secretary shall file all written  
22 comments, data, views and information furnished pursuant to  
23 Subsection [D] E of this section in the public repository file  
24 and shall preserve that file for use in connection with the  
25 listing process and development of any recovery plan developed

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1 pursuant to the provisions of Section 17-2-40.1 NMSA 1978. The  
2 [~~director~~] secretary shall file in the public repository file  
3 all records indicating contact by the director, the researcher,  
4 employees or contractors with landowners or public or private  
5 resource managers affected by the potential action.

6 G. Information from the public repository file  
7 relating to social and economic impacts shall not be considered  
8 by the [~~director~~] secretary in making [~~his recommendation or~~  
9 ~~the commission in making its~~] a decision to list, delist, not  
10 list, continue to list, upgrade or downgrade a species, but  
11 shall be considered only in the development of any recovery  
12 plan for the species.

13 H. The [~~commission~~] division shall [~~adopt,~~  
14 ~~notwithstanding the provisions of Section 14-2-1 NMSA 1978,~~  
15 ~~regulations by January 1, 1996~~] promulgate rules governing the  
16 confidentiality of data from an investigation.

17 I. The researcher shall prepare and submit draft  
18 reports to the peer review panel and to the public repository  
19 file. The peer review panel will be requested to examine and  
20 comment on the draft report in a timely manner.

21 J. After consideration of the peer review panel's  
22 submitted comments on the draft reports, the researcher shall  
23 prepare final reports and file them and all peer review panel  
24 comments with the [~~director~~] secretary and in the public  
25 repository file. The peer review panel shall not be compelled

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1 to attend any hearing before the [~~commission~~] division.

2 K. Upon receipt of the researcher's final reports,  
3 the [~~director~~] secretary shall [~~make recommendations to the~~  
4 ~~commission to list, not list or delist the species based upon~~  
5 ~~criteria listed in Subsection L of this section. The~~  
6 ~~commission shall~~] establish dates and locations for public  
7 hearings on the recommended actions and give notice of the  
8 public hearings in the same manner and to the same persons as  
9 notice was given of the initiation of the investigation and, in  
10 addition, publish legal notice in a newspaper of general  
11 circulation in the area affected at least ninety days before  
12 the date set for the hearing. Public hearings shall be held at  
13 a place within any quadrant of the state affected by the  
14 recommended actions when the [~~director~~] secretary determines  
15 that there is substantial public interest indicated in holding  
16 a hearing in that quadrant. All hearings on the recommended  
17 actions shall be held within six months of the date the  
18 [~~director makes his recommendations~~] researcher files the final  
19 report with the secretary. The notice shall:

20 (1) include the date, time and location of all  
21 hearings on the matter;

22 (2) include a statement of the recommended  
23 action;

24 (3) include an indication of the location and  
25 availability of the public repository file;

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1 (4) indicate where and by what date written  
2 comments and testimony to be included in the hearing record may  
3 be filed;

4 (5) indicate that views, data and comments  
5 pertaining to the final report may be presented orally at or in  
6 writing to the hearing;

7 (6) specify that notice of intent to present  
8 technical and scientific testimony and a written copy of the  
9 testimony to be presented shall be submitted to the  
10 [~~commission~~] secretary not less than thirty days prior to the  
11 initial hearing; and

12 (7) specify that the public record shall remain  
13 open for comments for thirty days after the date of the final  
14 hearing.

15 L. The [~~commission~~] secretary shall make [~~its~~  
16 ~~decisions~~] a decision and take action based upon relevant and  
17 reliable evidence to list, not list or delist a species [~~at its~~  
18 ~~next regularly scheduled meeting within~~] no more than thirty  
19 days after the close of the hearing record. The [~~commission~~]  
20 secretary shall:

21 (1) list or maintain a species as endangered and  
22 shall not delist a species if [~~it~~] the secretary finds that the  
23 species' prospects for survival or recruitment within the state  
24 are in jeopardy based upon the biological and ecological  
25 evidence in the public repository file and based upon

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1 biological and ecological evidence received in the public  
2 hearings; and

3 (2) list or maintain a species as threatened and  
4 shall not delist a species if ~~[it]~~ the secretary finds that the  
5 species' prospects for survival or recruitment within the state  
6 are likely within the foreseeable future to be in jeopardy  
7 based upon the biological and ecological evidence in the public  
8 repository file and biological and ecological evidence received  
9 in public hearings.

10 M. Whenever the ~~[director]~~ secretary finds that there  
11 is an emergency posing a significant risk to the well-being of  
12 any species and that risk is likely to jeopardize the continued  
13 survival or recruitment of the species within the state, the  
14 ~~[director]~~ secretary shall ~~[recommend to the commission that~~  
15 ~~the species should be listed as endangered. The commission~~  
16 ~~shall act upon the director's recommendation]~~ immediately ~~[and~~  
17 ~~shall]~~ either list or not list the species by ~~[regulation]~~ rule  
18 based upon the evidence supporting the recommendation if ~~[it]~~  
19 the secretary finds that the continued survival of the species  
20 is in jeopardy. If the ~~[commission]~~ secretary lists the  
21 species as endangered, ~~[it shall waive]~~ the requirements of  
22 Subsections A through L of this section shall be waived.

23 Whenever the ~~[commission]~~ secretary adopts a ~~[regulation]~~ rule  
24 listing a species as endangered pursuant to this subsection, it  
25 shall give notice of the listing in the same manner and to the

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1 same persons as notice is given in the initiation of  
2 investigations and in addition shall publish legal notice in a  
3 newspaper of general circulation in the area affected. The  
4 emergency listing shall cease to have force and effect at the  
5 close of a three-year period following the date of the finding  
6 unless, during the three-year period, the procedures for  
7 listing pursuant to Subsections B through L of this section or  
8 continuing to list pursuant to [~~commission regulations~~] rules  
9 for the biennial review are completed."

10 SECTION 53. Section 17-2-40.1 NMSA 1978 (being Laws 1995,  
11 Chapter 145, Section 5) is amended to read:

12 "17-2-40.1. RECOVERY PLANS--PROCEDURES.--

13 A. To the extent practicable, a recovery plan shall  
14 be developed pursuant to Subsections B through G of this  
15 section for any species listed as threatened or endangered. If  
16 indicated, the director shall conduct a social and economic  
17 analysis and, if adverse impacts are found, develop a social or  
18 economic mitigation plan.

19 B. To the extent practicable, the director shall  
20 develop recovery plans that include several threatened or  
21 endangered species that utilize similar habitats or share a  
22 common threat or both. A multiple-species recovery plan shall  
23 be designed to accomplish recovery of the shared habitat or  
24 reduce a common threat or both.

25 C. As the initial action in the development of a

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1 recovery plan, the director shall, within one year of listing,  
2 schedule a public information meeting in each of the quadrants  
3 of the state determined by the director to be affected by the  
4 development of a recovery plan. These meetings shall be held  
5 in a manner calculated to provide a reasonable opportunity for  
6 individuals and private and public entities to participate and  
7 express their views about the development of a recovery plan  
8 for one or more species and the attendant adverse social or  
9 economic impacts, if any, that may result from implementation  
10 of a recovery plan. At these meetings, the director shall  
11 present background information about the basis of the listing,  
12 an explanation of the process to develop a recovery plan and  
13 the probable content in general terms, if known, of the  
14 recovery plan and if needed, the process to develop a social  
15 and economic mitigation plan.

16 D. Upon completion of the public information [~~meeting~~  
17 ~~or~~] meetings on a recovery plan, the director shall consult and  
18 cooperate with other states or countries when appropriate and  
19 shall solicit interest from representatives of affected local  
20 governments, tribal governments, landowners, state and federal  
21 agencies and other interested individuals and organizations to  
22 serve on an advisory committee. [~~He~~] The director shall  
23 appoint to the advisory committee all of those who are willing  
24 to participate in the development of the recovery plan. When  
25 necessary, [~~he~~] the director may appoint from the membership of

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1 the advisory committee a working group reflecting the diversity  
2 of the advisory committee.

3 E. With the assistance of the advisory committee, the  
4 director shall develop a draft recovery plan to achieve the  
5 following objectives:

6 (1) restoration and maintenance of a viable  
7 population of the threatened or endangered species and its  
8 habitat reasonably expected to lead to the delisting of the  
9 species;

10 (2) avoidance or mitigation of adverse social or  
11 economic impacts;

12 (3) identification of social or economic  
13 benefits and opportunities; and

14 (4) use of volunteer resources and existing  
15 economic recovery and assistance programs and funding available  
16 from public and private sources to implement the plan.

17 F. The director shall mail the draft recovery plan to  
18 federal and state agencies, local and tribal governments that  
19 are or may be affected by the recovery plan and individuals and  
20 organizations that have requested notification of [~~department~~]  
21 division actions regarding threatened or endangered species.

22 G. [~~The final recovery plan shall be presented to the~~  
23 ~~commission for its consideration not later than two years from~~  
24 ~~the date the species was listed.~~] If, after receiving comment  
25 from the entities listed in Subsection F of this section, the

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1 [commission] director determines that the proposed plan has  
2 achieved the objectives set forth in Subsection E of this  
3 section, [~~it~~] the director shall approve the recovery plan or  
4 approve with conditions. After approval of the plan, the  
5 director shall seek cooperation with other states and  
6 countries, when appropriate, and landowners, state and federal  
7 agencies and local and tribal governments for implementation of  
8 the recovery plan and when appropriate submit the recovery plan  
9 to the secretary of the interior for approval pursuant to the  
10 federal Endangered Species Act of 1973."

11 SECTION 54. Section 17-2-41 NMSA 1978 (being Laws 1974,  
12 Chapter 83, Section 5, as amended) is amended to read:

13 "17-2-41. ENDANGERED SPECIES.--

14 A. On the basis of investigations concerning  
15 wildlife, other available scientific and commercial data and  
16 after consultation with wildlife agencies in other states,  
17 appropriate federal agencies, local and tribal governments and  
18 other interested persons and organizations, the [~~commission~~]  
19 division shall by [~~regulation~~] rule develop a list of those  
20 species of wildlife indigenous to the state that are determined  
21 to be threatened or endangered within the state, giving their  
22 common and scientific names by species and subspecies.

23 B. The director shall conduct a review of the state  
24 list of threatened or endangered species [~~and shall present~~]  
25 biennially to [~~the commission his recommendations for~~

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1 appropriate] determine what action [~~The commission shall act on~~  
2 ~~the director's biennial recommendations at its next regularly~~  
3 ~~scheduled meeting. The commission shall adopt, no later than~~  
4 ~~January 1, 1996, regulations providing procedures for~~  
5 ~~commission actions on the director's recommendations to~~  
6 ~~continue to list or to upgrade or downgrade a species] to take  
7 relating to the upgrade or downgrade of a species.~~

8 C. Except as otherwise provided in the Wildlife  
9 Conservation Act, it is unlawful for any person to take,  
10 possess, transport, export, process, sell or offer for sale or  
11 ship any species of wildlife appearing on any of the following  
12 lists:

13 (1) the list of wildlife indigenous to the state  
14 determined to be endangered within the state as set forth by  
15 [~~regulations~~] rules of the [~~commission~~] division; and

16 (2) the United States lists of endangered native  
17 and foreign fish and wildlife as set forth in Section 4 of the  
18 federal Endangered Species Act of 1973 as endangered or  
19 threatened species, but only to the extent that those lists are  
20 adopted for this purpose by [~~regulations~~] rules of the  
21 [~~commission~~] division; provided that any species of wildlife  
22 appearing on any of the lists set forth in this subsection,  
23 transported into the state from another state or from a point  
24 outside the territorial limits of the United States and [~~which~~]  
25 that is destined for a point beyond the state, may be

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1 transported across the state without restriction in accordance  
2 with the terms of any federal permit or permit issued under the  
3 laws or [~~regulations~~] rules of another state or otherwise in  
4 accordance with the laws of another state.

5 D. The provisions of Subsection C of this section  
6 shall not apply to a taking of wildlife by a Native American  
7 for religious purposes, unless it materially and negatively  
8 affects an endangered species or threatened species."

9 SECTION 55. Section 17-2-42 NMSA 1978 (being Laws 1974,  
10 Chapter 83, Section 6) is amended to read:

11 "17-2-42. MANAGEMENT PROGRAMS.--

12 A. The director shall establish such programs,  
13 including programs for research and the acquisition of land or  
14 aquatic habitat, as authorized and deemed necessary [~~by the~~  
15 ~~commission~~] for the management of endangered species.

16 B. In carrying out programs authorized by the  
17 Wildlife Conservation Act, the director may enter into  
18 agreements with federal agencies, political subdivisions of the  
19 state or with private persons for administration and management  
20 of any program established under this section or utilized for  
21 management of endangered species.

22 C. The director may authorize by permit the taking,  
23 possession, transportation, exportation or shipment of species  
24 or subspecies [~~which~~] that have been deemed [~~by the commission~~]  
25 to be in need of management as provided in the Wildlife

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1 Conservation Act, so long as such use is for scientific,  
2 zoological or educational purposes, for propagation in  
3 captivity of such wildlife or to protect private property.

4 D. Endangered species may be removed, captured or  
5 destroyed where necessary to alleviate or prevent damage to  
6 property or to protect human health. Such removal, capture or  
7 destruction may be carried out only by prior authorization by  
8 permit from the director, unless otherwise provided by law;  
9 provided that endangered species may be removed, captured or  
10 destroyed without permit by any person in emergency situations  
11 involving an immediate threat to human life or private  
12 property. [~~Regulations~~] Rules governing the removal, capture  
13 or destruction of endangered species shall be [~~adopted~~]  
14 promulgated by the [~~commission within one year after the~~  
15 ~~effective date of the Wildlife Conservation Act~~] division."

16 SECTION 56. Section 17-2-43 NMSA 1978 (being Laws 1974,  
17 Chapter 83, Section 7) is amended to read:

18 "17-2-43. [~~COMMISSION~~] DIVISION--POWER TO REGULATE.--The  
19 [~~commission~~] division is authorized and directed to establish  
20 such [~~regulations~~] rules as it may deem necessary to carry out  
21 all the provisions and purposes of the Wildlife Conservation  
22 Act."

23 SECTION 57. Section 17-2-43.1 NMSA 1978 (being Laws 1995,  
24 Chapter 145, Section 8, as amended) is amended to read:

25 "17-2-43.1. JUDICIAL REVIEW--ADMINISTRATIVE ACTIONS.--

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1           A. Any person adversely affected by an order of the  
2 ~~[commission]~~ division or secretary may appeal to the district  
3 court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

4           B. Any person adversely affected by a ~~[regulation]~~  
5 rule adopted by the ~~[commission]~~ division or secretary may  
6 appeal to the court of appeals. All appeals shall be upon the  
7 record made at the hearing or contained in the public  
8 repository file and shall be taken to the court of appeals  
9 within thirty days following the date of the filing of the  
10 ~~[regulation]~~ rule by the ~~[commission]~~ division pursuant to the  
11 provisions of the State Rules Act.

12           C. Upon appeal, the court of appeals shall set aside  
13 the ~~[regulation]~~ rule only if it is found to be:

14                   (1) arbitrary, capricious or an abuse of  
15 discretion;

16                   (2) not supported by substantial evidence in the  
17 record; or

18                   (3) otherwise not in accordance with law.

19           D. After a hearing and a showing of good cause by the  
20 appellant, a stay of the ~~[regulation]~~ rule being appealed may  
21 be granted:

22                   (1) by the ~~[commission]~~ division; or

23                   (2) by the court of appeals if the ~~[commission]~~  
24 division denies a stay or fails to act upon an application for  
25 a stay within sixty days after receipt of the application.

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1 E. The appellant shall pay all costs for any appeal  
2 found to be frivolous by the court of appeals."

3 SECTION 58. Section 17-2A-2 NMSA 1978 (being Laws 1996,  
4 Chapter 89, Section 4) is amended to read:

5 "17-2A-2. STATEWIDE SYSTEM FOR HUNTING ACTIVITIES.--The  
6 [~~state game commission~~] game and fish division of the energy,  
7 minerals and natural resources department shall develop a  
8 statewide system for hunting activities that increases  
9 participation by New Mexico residents and considers hunter  
10 safety, quality hunts, high demand areas, guides and  
11 outfitters, quotas and local and financial interests."

12 SECTION 59. Section 17-3-7 NMSA 1978 (being Laws 1912,  
13 Chapter 85, Section 48, as amended) is amended to read:

14 "17-3-7. BLANK FORMS--LICENSE ISSUED ONLY ON  
15 APPLICATION--FALSE STATEMENT VOIDS LICENSE--RECORDS--REPORTS--  
16 ACCOUNTING FOR FEES COLLECTED--REFUND OF FEES--TRANSFER OF  
17 HUNTING LICENSE.--

18 A. The director of the [~~department of~~] game and fish  
19 division of the energy, minerals and natural resources  
20 department shall prescribe and procure the printing of all  
21 forms and blanks that may be required to carry out the intent  
22 of Chapter 17 NMSA 1978. All necessary blanks shall be  
23 furnished by the director to the license collectors. No  
24 license shall be issued except as provided in Section 17-3-5  
25 NMSA 1978. Any false statement in any application shall render

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1 the license issued void.

2 B. A license collector shall keep a correct and  
3 complete record of licenses issued, which record shall remain  
4 in the license collector's office and be open to inspection by  
5 the public at all times.

6 C. A license collector may collect and retain a  
7 vendor fee for each license or permit issued; provided the fee  
8 shall be just and reasonable, as determined by [~~regulation~~]  
9 rule of the [~~state game commission~~] game and fish division, and  
10 shall not exceed one dollar (\$1.00) for each license or permit  
11 issued; and provided further that no such fee shall be  
12 collected by the [~~department of game and fish~~] division from  
13 the purchaser of a special license. "Special license" includes  
14 those licenses for the following species: antelope, elk,  
15 Barbary sheep, bighorn sheep, bison, oryx, ibex, gazelle and  
16 javelina.

17 D. A license collector shall remit to the director of  
18 the [~~department of~~] game and fish division the statutory fee of  
19 all licenses and permits sold on or before the tenth day of the  
20 month following and shall by the same time report the number  
21 and kind of licenses issued.

22 E. Except as provided in Section 17-1-14 NMSA 1978,  
23 the director of the [~~department of~~] game and fish division  
24 shall turn over all money so received to the state treasurer to  
25 be credited to the game protection fund.

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1 F. The director of the [~~department of~~] game and fish  
2 division, in the director's sole discretion, may authorize a  
3 refund of the amount of a hunting license fee from the game and  
4 fish suspense fund if:

5 (1) upon written application by the licensee,  
6 prior to the time of the hunt for which the license has been  
7 issued, the director finds that:

8 (a) the licensee has a disability, due to a  
9 verified injury or life-threatening illness, that prohibits the  
10 licensee from hunting during the period that the license is  
11 valid; or

12 (b) the licensee has been deployed by the  
13 military and the deployment prevents the licensee from  
14 traveling to the hunt during the period that the license is  
15 valid; or

16 (2) upon written application by a personal  
17 representative of a licensee's estate, the director finds that  
18 the licensee died prior to the time of the hunt for which the  
19 license was issued.

20 G. The director of the [~~department of~~] game and fish  
21 division, in the director's sole discretion, may authorize a  
22 transfer of a hunting license:

23 (1) to the licensee's designee if, upon written  
24 application by the licensee, prior to the time of the hunt for  
25 which the license has been issued, the director finds that:

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1 (a) the licensee has a disability, due to a  
2 verified injury or life-threatening illness, that prohibits the  
3 licensee from hunting during the period that the license is  
4 valid; or

5 (b) the licensee has been deployed by the  
6 military and the deployment prevents the licensee from  
7 traveling to the hunt during the period that the license is  
8 valid;

9 (2) to the designee of the licensee's estate if,  
10 upon written application by the personal representative of the  
11 licensee's estate, the director finds that the licensee died  
12 prior to the time of the hunt for which the license was issued;  
13 or

14 (3) upon written application by a licensee, to a  
15 nonprofit organization approved by the [~~state game commission~~]  
16 division.

17 H. The [~~state game commission~~] game and fish division  
18 may prescribe, by rule, the documentation necessary for a  
19 finding pursuant to Subsection F or G of this section."

20 SECTION 60. Section 17-3-12 NMSA 1978 (being Laws 1959,  
21 Chapter 144, Section 6) is amended to read:

22 "17-3-12. ACCOUNTING FOR LICENSES.--When a license vendor  
23 is unable to account for hunting and fishing licenses issued to  
24 [~~him~~] the license vendor, the [~~state game commission~~] game and  
25 fish division of the energy, minerals and natural resources

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1 department shall determine the extent of liability of the  
2 vendor, and the decision of the [~~commission~~] division shall be  
3 final."

4 SECTION 61. Section 17-3-13.5 NMSA 1978 (being Laws 2003,  
5 Chapter 290, Section 1) is amended to read:

6 "17-3-13.5. ELK LICENSES RESERVED.--The [~~state game~~  
7 ~~commission~~] game and fish division of the energy, minerals and  
8 natural resources department shall reserve no more than two elk  
9 licenses a year for sale to persons under the age of twenty-one  
10 who have been determined by a licensed physician to have a  
11 life-threatening illness and who have been qualified through a  
12 nonprofit wish-granting organization approved by the  
13 [~~commission~~] division."

14 SECTION 62. Section 17-3-14.1 NMSA 1978 (being Laws 1989,  
15 Chapter 86, Section 1) is amended to read:

16 "17-3-14.1. LANDOWNER PERMITS FOR ELK.--The director of  
17 the [~~department of~~] game and fish division of the energy,  
18 minerals and natural resources department shall issue landowner  
19 permits for the lawful taking of elk in accordance with  
20 [~~regulations~~] rules of the [~~state game commission~~] division."

21 SECTION 63. Section 17-3-14.2 NMSA 1978 (being Laws 1998,  
22 Chapter 12, Section 1) is amended to read:

23 "17-3-14.2. LANDOWNER PERMITS--MANAGEMENT OF CERTAIN BIG  
24 GAME SPECIES.--The director of the [~~department of~~] game and  
25 fish division of the energy, minerals and natural resources

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1 department may issue landowner permits for the lawful taking of  
2 elk, antelope, oryx and deer. The permits may be issued when,  
3 in the determination of the director, they are necessary to  
4 effectively reduce conflicts between humans and wildlife and  
5 provide sport-hunting opportunities in accordance with  
6 [~~regulations~~] rules of the [~~state game commission~~] division."

7 SECTION 64. Section 17-3-15 NMSA 1978 (being Laws 1964  
8 (1st S.S.), Chapter 17, Section 6, as amended) is amended to  
9 read:

10 "17-3-15. ADDITIONAL DEER LICENSE.--

11 A. It is a misdemeanor for any person to procure or  
12 use more than one license to hunt big game in one year, except  
13 as provided in this section, or to use any tag after it has  
14 been used once.

15 B. For the purpose of effectuating better game  
16 management and control, the [~~state game commission~~] game and  
17 fish division of the energy, minerals and natural resources  
18 department may by [~~regulation~~] rule authorize the sale of not  
19 more than one additional deer license each year to any person  
20 holding a license that entitled the person to hunt deer during  
21 that year. The fee for an additional deer license shall be the  
22 resident or nonresident deer license fee pursuant to Section  
23 17-3-13 NMSA 1978.

24 C. It is a misdemeanor for any person to take or  
25 attempt to take a deer with an additional deer license unless

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1 the person has the additional deer license and the other  
2 license that entitled the person to hunt deer for that year in  
3 the person's possession. Possession of an additional deer  
4 license without the other license that entitled the person to  
5 hunt deer for that year is prima facie evidence of violation of  
6 this section."

7 SECTION 65. Section 17-3-16.1 NMSA 1978 (being Laws 1989,  
8 Chapter 384, Section 1, as amended) is amended to read:

9 "17-3-16.1. BIGHORN SHEEP ENHANCEMENT PERMITS--ISSUANCE--  
10 USE.--

11 A. The [~~state game commission shall direct the~~  
12 ~~department of~~] game and fish [~~to~~] division of the energy,  
13 minerals and natural resources department shall authorize not  
14 more than two of the permits available for issuance in the  
15 license year for the taking of two bighorn rams for the purpose  
16 of raising funds for programs and projects to benefit bighorn  
17 sheep.

18 B. The [~~state game commission~~] game and fish division  
19 shall prescribe by [~~regulation~~] rule the form, design and  
20 manner of issuance of the bighorn sheep enhancement permits.  
21 The issuance of one permit shall be subject to auction by the  
22 [~~department~~] division or by an incorporated nonprofit  
23 organization dedicated to conservation of wildlife, as  
24 determined by the [~~commission~~] division and shall be sold to  
25 the highest bidder. The issuance of the other permit shall be

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1 subject to a lottery by the [~~department~~] division, or by an  
2 incorporated nonprofit organization dedicated to conservation  
3 of wildlife, as determined by the [~~commission~~] division.

4 C. All money collected from the issuance and sale of  
5 the bighorn sheep enhancement permits shall be credited to the  
6 game protection fund to be used exclusively for bighorn sheep  
7 preservation, restoration and management."

8 SECTION 66. Section 17-3-16.2 NMSA 1978 (being Laws 1999,  
9 Chapter 69, Section 1) is amended to read:

10 "17-3-16.2. ELK ENHANCEMENT PERMIT--ISSUANCE--USE.--

11 A. The [~~state game commission shall direct the~~  
12 ~~department of~~] game and fish [~~to~~] division of the energy,  
13 minerals and natural resources department shall authorize two  
14 elk enhancement permits each license year for the taking of two  
15 elk bulls to raise funds for programs and projects to better  
16 manage elk.

17 B. The [~~state game commission~~] game and fish division  
18 shall prescribe by rule the form, design and manner of issuance  
19 of the two elk enhancement permits. The issuance of one permit  
20 shall be subject to auction by the [~~department~~] division or by  
21 an incorporated nonprofit organization dedicated to  
22 conservation of wildlife, as determined by the [~~commission~~]  
23 division, and shall be sold to the highest bidder. The  
24 issuance of the other permit shall be subject to a lottery by  
25 the [~~department~~] division or by an incorporated nonprofit

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1 organization dedicated to conservation of wildlife, as  
2 determined by the [~~commission~~] division.

3 C. All money collected from the issuance and sale of  
4 the elk enhancement permits shall be credited to the game  
5 protection fund to be used exclusively for elk restoration and  
6 management."

7 SECTION 67. Section 17-3-16.3 NMSA 1978 (being Laws 2003,  
8 Chapter 69, Section 1) is amended to read:

9 "17-3-16.3. LIEUTENANT GOVERNOR'S DEER ENHANCEMENT  
10 PERMITS--ISSUANCE--USE.--

11 A. The [~~state game commission shall direct the~~  
12 ~~department of~~] game and fish [~~to~~] division of the energy,  
13 minerals and natural resources department shall authorize two  
14 deer enhancement permits each license year for the taking of  
15 two deer to raise funds for programs and projects to better  
16 manage deer.

17 B. The [~~state game commission~~] game and fish division  
18 shall prescribe by rule the form, design and manner of issuance  
19 of the two deer enhancement permits. The issuance of one  
20 permit shall be subject to auction by the [~~department~~] division  
21 or by an incorporated nonprofit organization dedicated to  
22 conservation of wildlife, as determined by the [~~commission~~]  
23 division, and shall be sold to the highest bidder. The  
24 issuance of the other permit shall be subject to a lottery by  
25 the [~~department~~] division or by an incorporated nonprofit

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1 organization dedicated to conservation of wildlife, as  
2 determined by the [~~commission~~] division.

3 C. All money collected from the issuance and sale  
4 of the lieutenant governor's deer enhancement permits shall  
5 be credited to the game protection fund to be used  
6 exclusively for deer restoration and management."

7 SECTION 68. Section 17-3-16.4 NMSA 1978 (being Laws  
8 2005, Chapter 149, Section 1) is amended to read:

9 "17-3-16.4. GOULD'S TURKEY ENHANCEMENT PERMITS--  
10 ISSUANCE--USE.--

11 A. The [~~state game commission may direct the~~  
12 ~~department of~~] game and fish [~~to~~] division of the energy,  
13 minerals and natural resources department may authorize  
14 Gould's turkey enhancement permits for the taking of Gould's  
15 turkeys, Meleagris gallopavo mexicana, to raise funds for  
16 programs and projects to better manage the Gould's turkey  
17 population in New Mexico.

18 B. The [~~state game commission~~] game and fish  
19 division shall prescribe by rule the form, design and manner  
20 of issuance of the Gould's turkey enhancement permits. The  
21 issuance of the permits shall be subject to a lottery or  
22 auction. Such allotment of the permits may be conducted by  
23 an incorporated nonprofit organization dedicated to  
24 conservation of wildlife, in cooperation with and overseen by  
25 the [~~commission and the department of game and fish~~]

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1 division.

2 C. The [~~state game commission~~] game and fish  
3 division shall [~~direct the department of game and fish to~~]  
4 authorize Gould's turkey enhancement permits only after the  
5 [~~department~~] division has documented that the issuance of  
6 each enhancement permit will not jeopardize the prospects for  
7 the survival and recruitment of the Gould's turkey within New  
8 Mexico.

9 D. Gould's turkey enhancement permits shall be  
10 authorized only when doing so does not conflict with the  
11 Wildlife Conservation Act or any rules implementing that act.

12 E. Money collected from the issuance and sale of  
13 the Gould's turkey enhancement permits shall be credited to  
14 the game protection fund to be used exclusively for the  
15 restoration and management of Gould's turkeys and Gould's  
16 turkey habitats, which support a variety of other unique and  
17 rare wildlife of southwestern New Mexico."

18 SECTION 69. Section 17-3-16.5 NMSA 1978 (being Laws  
19 2007, Chapter 105, Section 1) is amended to read:

20 "17-3-16.5. HUNTING AND FISHING AUTHORIZATIONS--  
21 GOVERNOR'S SPECIAL EVENTS.--The director of the [~~department~~  
22 ~~of~~] game and fish division of the energy, minerals and  
23 natural resources department may annually make available to  
24 the governor no more than twelve big game special  
25 authorizations and twelve game bird or trophy fish special

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1 authorizations. The authorizations shall be allocated by  
2 auction in conjunction with special events called by the  
3 governor to raise money for fish and wildlife conservation.  
4 Any auction used to allocate an authorization shall comply  
5 with rules adopted by the [~~state game commission~~] division.  
6 Each authorization shall allow the holder to purchase a  
7 license to hunt or fish for the species indicated on the  
8 authorization during dates and times at locations specified  
9 by the [~~state game commission~~] division. The director may  
10 designate the species allowable for each authorization, but  
11 no more than three authorizations shall be issued for any one  
12 species each year. Money collected pursuant to the special  
13 authorizations of the governor shall be deposited in the game  
14 protection fund."

15 SECTION 70. Section 17-3-16.6 NMSA 1978 (being Laws  
16 2007, Chapter 243, Section 1) is amended to read:

17 "17-3-16.6. ENHANCEMENT AUTHORIZATION PACKAGES--HABITAT  
18 ENHANCEMENT.--The [~~state game commission~~] game and fish  
19 division of the energy, minerals and natural resources  
20 department shall adopt rules [~~for the department of game and~~  
21 ~~fish~~] to issue enhancement authorization packages each  
22 license year for the taking of one each of elk, deer, oryx,  
23 ibex and pronghorn antelope. Each enhancement authorization  
24 package shall be auctioned by the [~~department of game and~~  
25 ~~fish~~] division or by an incorporated nonprofit organization

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1 dedicated to the conservation of wildlife and sold to the  
2 highest bidder. Money collected from the enhancement  
3 authorization packages shall be deposited in the game  
4 protection fund and shall be used exclusively for big game  
5 habitat enhancement, conservation and protection."

6 SECTION 71. Section 17-3-17 NMSA 1978 (being Laws 1964  
7 (1st S.S.), Chapter 17, Section 8, as amended) is amended to  
8 read:

9 "17-3-17. FISHING WITHOUT LICENSE--EXCEPTIONS.--

10 A. It is a misdemeanor for any person, except  
11 children who have not reached their twelfth birthday, to take  
12 or attempt to take any game fish from any public stream or  
13 water in this state without ~~[having on his person]~~ carrying a  
14 proper fishing license as provided by law. The presence of  
15 any person, except children who have not reached their  
16 twelfth birthday, along any public stream or water in this  
17 state with fishing rod, hook or line, without ~~[having on his~~  
18 ~~person]~~ carrying a proper fishing license, is prima facie  
19 evidence of the violation of this section. The director of  
20 the ~~[department of]~~ game and fish division of the energy,  
21 minerals and natural resources department or any conservation  
22 officer may require any person along any public stream or  
23 water in this state with fishing rod, hook or line to exhibit  
24 ~~[his]~~ the person's license.

25 B. The director ~~[with the approval of the state~~

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1 ~~game commission~~ of the game and fish division may designate  
2 no more than two nonconsecutive Saturdays in each year as  
3 free fishing days. During the free fishing days, residents  
4 and nonresidents may exercise the privileges of holders of  
5 proper fishing licenses without having proper fishing  
6 licenses and without payment of any license fees, subject to  
7 all limitations, restrictions, conditions, laws and rules  
8 ~~[and regulations]~~ applicable to holders of proper fishing  
9 licenses."

10 SECTION 72. Section 17-3-21 NMSA 1978 (being Laws 1949,  
11 Chapter 149, Section 3) is amended to read:

12 "17-3-21. FISHING LAWS APPLICABLE TO SPECIAL  
13 LICENSEES.--All fishing under the privileges granted to the  
14 holders of ~~[such]~~ special licenses issued pursuant to Section  
15 17-3-19 NMSA 1978 shall be in accordance with the seasons and  
16 bag limits and other ~~[regulations]~~ rules established by the  
17 ~~[state game commission]~~ game and fish division of the energy,  
18 minerals and natural resources department."

19 SECTION 73. Section 17-3-24 NMSA 1978 (being Laws 1951,  
20 Chapter 60, Section 2) is amended to read:

21 "17-3-24. FISHING SUPERVISION AT BOYS' SCHOOL.--  
22 ~~[Provided however, that such]~~ Fishing by ~~[said wards]~~  
23 resident children as provided by Section ~~[of this act]~~  
24 17-3-23 NMSA 1978 shall be done under the supervision of the  
25 officials of ~~[said]~~ the New Mexico ~~[Industrial]~~ boys' school

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1 and in conformity with seasons and bag limits established by  
2 the ~~[state game commission]~~ game and fish division of the  
3 energy, minerals and natural resources department."

4 SECTION 74. Section 17-3-26 NMSA 1978 (being Laws 1939,  
5 Chapter 27, Section 1, as amended) is amended to read:

6 "17-3-26. TAKING MINNOWS AND NONGAME FISH TO SELL AS  
7 BAIT--LICENSE REQUIRED--EXCEPTION.--It is unlawful for any  
8 person, except children under the age of twelve years, to  
9 take from the streams or public waters of this state minnows  
10 and nongame fish for the purpose of sale to fishermen or  
11 others for bait without having first procured from the ~~[state~~  
12 ~~game commission]~~ game and fish division of the energy,  
13 minerals and natural resources department a license therefor  
14 as provided in Sections 17-3-26 through 17-3-28 NMSA 1978."

15 SECTION 75. Section 17-3-27 NMSA 1978 (being Laws 1939,  
16 Chapter 27, Section 2, as amended) is amended to read:

17 "17-3-27. BAIT LICENSE--BOND--FEE--ISSUANCE.--Any  
18 person desiring to procure a license for the purpose of  
19 engaging in the business of selling minnows and nongame fish  
20 for bait or taking minnows and nongame fish from the streams  
21 of this state for the purpose of sale to others shall apply  
22 to the ~~[state game commission]~~ game and fish division of the  
23 energy, minerals and natural resources department for a  
24 license. The application shall be upon forms provided by the  
25 ~~[commission]~~ division and shall set forth the public streams

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1 or waters out of which the applicant intends to take the  
2 minnows and nongame fish and the place at which they are to  
3 be sold. The application shall be accompanied by a just and  
4 reasonable fee as determined by [~~regulation~~] rule of the  
5 [~~state game commission~~] division. Upon receipt of the  
6 application, it [~~shall be~~] is the duty of the [~~state game~~  
7 ~~commission or, when it is not in session, the~~] director of  
8 the [~~department of game and fish~~] division to pass upon the  
9 application and to issue a license authorizing the taking and  
10 the manner of taking of the minnows and nongame fish by the  
11 applicant from those waters in the state as in the opinion of  
12 the [~~state game commission or~~] director will not be  
13 detrimental to the public or injurious to protected fish.  
14 The license when so issued shall specify the manner of taking  
15 and the waters from which the applicant is permitted to take  
16 minnows and nongame fish for sale for bait."

17 SECTION 76. Section 17-3-28 NMSA 1978 (being Laws 1939,  
18 Chapter 27, Section 3) is amended to read:

19 "17-3-28. EXCEPTIONS--PROHIBITIONS.--Nothing in [~~this~~  
20 ~~act~~] Sections 17-3-26 through 17-3-28 NMSA 1978 shall be  
21 construed to prevent licensed fishermen from taking minnows  
22 and other nongame fish for [~~his~~] their own use for bait or to  
23 prevent any minor under fifteen [~~(15)~~] years of age from  
24 taking minnows not for resale; provided, however, that it  
25 shall be unlawful for licensed fishermen or any other person

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1 using nongame fish for bait to place any of [~~such~~] the  
2 nongame fish [~~which~~] that are not used for bait in any waters  
3 stocked or reserved for game fish by the [~~state game~~  
4 ~~commission of the state of New Mexico~~] game and fish division  
5 of the energy, minerals and natural resources department."

6 SECTION 77. Section 17-3-29 NMSA 1978 (being Laws 1912,  
7 Chapter 85, Section 42, as amended) is amended to read:

8 "17-3-29. PERMIT TO TAKE GAME, BIRDS OR FISH AS  
9 SPECIMENS OR FOR SCIENTIFIC OR PROPAGATING PURPOSES--  
10 ELIGIBILITY--ISSUANCE--CONTENTS--NONASSIGNABLE--SALE FOR FOOD  
11 PURPOSES PROHIBITED.--The [~~state~~] director of the game and  
12 fish division of the energy, minerals and natural resources  
13 department may issue permits to any person to take, capture,  
14 kill or transport within or out of the state any game, birds  
15 or fish mentioned in [~~this~~] Chapter 17 NMSA 1978 at any time  
16 when satisfied that [~~such~~] the person desires the [~~same~~]  
17 game, birds or fish exclusively as specimens or for  
18 scientific or propagating purposes. [~~Such~~] The permit shall  
19 be in writing and shall state the kind and number to be taken  
20 and the manner of taking, the name of the person to whom  
21 issued, the name of the place to which the [~~same is~~] game,  
22 birds or fish are to be transported and the name of the  
23 persons shipping [~~such~~] the game, birds or fish, and shall be  
24 signed by [~~him. Such~~] the person. The permit shall not be  
25 transferable, nor shall it be lawful to sell or barter any of

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1 the ~~[animals]~~ game, birds or fish taken or exported under  
2 ~~[such]~~ the permit for food purposes, and the holder ~~[such]~~ of  
3 the permit shall be liable to the penalties provided in  
4 ~~[this]~~ Chapter 17 NMSA 1978 if ~~[he]~~ the person violates any  
5 of its provisions."

6 SECTION 78. Section 17-3-30 NMSA 1978 (being Laws 1912,  
7 Chapter 85, Section 43, as amended) is amended to read:

8 "17-3-30. GAME AND FISH ~~[WARDEN MAY TRANSMIT SPECIMENS]~~  
9 FURNISHED TO OTHER STATES.--[SEC. 43.] The ~~[State Warden]~~  
10 director of the game and fish division of the energy,  
11 minerals and natural resources department may, upon  
12 application from the game and fish warden or corresponding  
13 officer of any other state, procure and transmit to ~~[such]~~  
14 that officer alive specimens of the game animals, birds and  
15 fish of this state to be used for scientific or propagating  
16 purposes."

17 SECTION 79. Section 17-3-34 NMSA 1978 (being Laws 1912,  
18 Chapter 85, Section 35, as amended) is amended to read:

19 "17-3-34. REVOCATION OF LICENSE, CERTIFICATE OR PERMIT  
20 FOR VIOLATION OF LAW--NOTICE AND HEARING--JUDICIAL REVIEW.--

21 A. If the holder of ~~[any]~~ a license, certificate or  
22 permit persistently, flagrantly or knowingly violates or  
23 countenances the violation of any of the provisions of  
24 Chapter 17 NMSA 1978 or of any ~~[regulations]~~ rules referred  
25 to in Section 17-2-10 NMSA 1978, the license, certificate or

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1 permit shall be revoked by the [~~state game commission~~] game  
2 and fish division of the energy, minerals and natural  
3 resources department after reasonable notice given the  
4 accused of the alleged violation and after the accused is  
5 afforded an opportunity to appear and show cause against the  
6 charges.

7 B. At the hearing, the [~~state game commission~~] game  
8 and fish division shall cause a record of the hearing to be  
9 made and shall allow the person charged to examine witnesses  
10 testifying at the hearing. [~~Any~~] A person whose license,  
11 certificate or permit has been revoked by the [~~commission~~]  
12 division may appeal to the district court pursuant to the  
13 provisions of Section 39-3-1.1 NMSA 1978."

14 SECTION 80. Section 17-3-35 NMSA 1978 (being Laws 1957,  
15 Chapter 194, Section 1) is amended to read:

16 "17-3-35. SHORT TITLE.--[~~This act~~] Sections 17-3-35  
17 through 17-3-42 NMSA 1978 may be cited as the "Regulated  
18 Shooting Preserve Act".

19 SECTION 81. Section 17-3-36 NMSA 1978 (being Laws 1957,  
20 Chapter 194, Section 2, as amended) is amended to read:

21 "17-3-36. REGULATED SHOOTING PRESERVES--FEES.--The  
22 [~~state game commission~~] game and fish division of the energy,  
23 minerals and natural resources department may issue licenses  
24 authorizing the establishment and operation of regulated  
25 propagated game bird shooting preserves on private lands when

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1 in the judgment of the [~~commission~~] division such areas will  
2 not conflict with any reasonable prior interest. The  
3 [~~commission~~] division shall govern and prescribe by  
4 [~~regulation~~] rule the following:

5 A. the minimum and maximum size of the areas,  
6 including the type of fences and signs;

7 B. the method of hunting;

8 C. the open and closed seasons, which need not  
9 conform to the regular hunting seasons;

10 D. the releasing, possession and use of legally  
11 propagated pen-raised game birds on the preserves; and

12 E. the fee for the licenses, which shall be just  
13 and reasonable."

14 SECTION 82. Section 17-3-38 NMSA 1978 (being Laws 1957,  
15 Chapter 194, Section 4) is amended to read:

16 "17-3-38. TAGS.--All game birds taken from preserves  
17 shall be tagged, with tags to be furnished by the  
18 [~~commission~~] game and fish division of the energy, minerals  
19 and natural resources department at a reasonable fee, before  
20 being transported."

21 SECTION 83. Section 17-3-39 NMSA 1978 (being Laws 1957,  
22 Chapter 194, Section 5) is amended to read:

23 "17-3-39. SPECIAL NONRESIDENT LICENSES.--The  
24 [~~commission~~] game and fish division of the energy, minerals  
25 and natural resources department may issue special

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1 nonresident bird licenses to nonresidents to hunt on  
2 regulated shooting preserves with the owner's consent for  
3 legally propagated game birds upon the payment of a license  
4 fee of five dollars [~~and~~] twenty-five cents (\$5.25). The  
5 license must be carried on the person at all times when  
6 hunting on private shooting preserves.

7 Five dollars (\$5.00) of the special nonresident bird  
8 license fee is to be paid to the [~~state game and fish~~  
9 ~~department~~] division. Twenty-five cents (\$.25) of the fee is  
10 to be retained by the issuing agent."

11 SECTION 84. Section 17-3-42 NMSA 1978 (being Laws 1957,  
12 Chapter 194, Section 8) is amended to read:

13 "17-3-42. REVOCATION OF PERMITS.--Any permit issued  
14 under the [~~Private~~] Regulated Shooting Preserve Act may be  
15 revoked for a violation of any provision or any [~~regulation~~]  
16 rule made by the [~~commission~~] game and fish division of the  
17 energy, minerals and natural resources department relating to  
18 [~~the~~] that act."

19 SECTION 85. Section 17-3-49 NMSA 1978 (being Laws 2006,  
20 Chapter 86, Section 1) to read:

21 "17-3-49. COMPUTER-ASSISTED REMOTE HUNTING PROHIBITED--  
22 PENALTIES.--

23 A. A person shall not:

24 (1) engage in computer-assisted remote  
25 hunting;

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1 (2) provide or operate facilities for the  
2 purpose of computer-assisted remote hunting;

3 (3) create, maintain, provide, advertise or  
4 sell computer software or an internet web site for the  
5 purpose of computer-assisted remote hunting; or

6 (4) entice, possess or confine an animal or  
7 bird for the purpose of computer-assisted remote hunting.

8 B. A person who violates the provisions of this  
9 section shall be sentenced in accordance with the provisions  
10 of Section 17-2-10 NMSA 1978.

11 C. When a person who violates the provisions of  
12 this section possesses a license, certificate or permit  
13 issued by the [~~state game commission~~] game and fish division  
14 of the energy, minerals and natural resources department, the  
15 license, certificate or permit shall be subject to revocation  
16 by the [~~commission~~] division pursuant to Sections 17-1-14 and  
17 17-3-34 NMSA 1978.

18 D. As used in this section:

19 (1) "computer-assisted remote hunting" means  
20 the use of a computer or other electronic device, equipment  
21 or software to access the internet and remotely control the  
22 aiming and discharge of a bow, crossbow or firearm of any  
23 kind for the purpose of hunting, taking or capturing an  
24 animal or bird; and

25 (2) "facilities for computer-assisted remote

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1 hunting" means the real property and improvements on the  
2 property associated with computer-assisted remote hunting,  
3 including hunting blinds, offices and rooms equipped to  
4 facilitate computer-assisted remote hunting."

5 SECTION 86. Section 17-4-1 NMSA 1978 (being Laws 1939,  
6 Chapter 223, Section 1, as amended) is amended to read:

7 "17-4-1. POWER TO ACQUIRE LAND.--The [~~state game~~  
8 ~~commission of the state of New Mexico~~] game and fish division  
9 of the energy, minerals and natural resources department is  
10 [~~hereby~~] authorized and empowered to acquire by purchase,  
11 gift, bequest or lease, and to hold, develop and improve,  
12 lands for fish hatcheries, game farms, game refuges, bird  
13 refuges, resting and nesting grounds, field stations, dams,  
14 lakes, ditches, flumes, waterways, pipelines, canals, rights  
15 of way, trails, roads and for all purposes incidental to the  
16 propagation, preservation, protection and management of the  
17 game, birds, fish and wildlife of the state [~~of New Mexico~~]."

18 SECTION 87. Section 17-4-2 NMSA 1978 (being Laws 1939,  
19 Chapter 223, Section 2, as amended) is amended to read:

20 "17-4-2. EMINENT DOMAIN POWER--ABANDONMENT OR  
21 RELINQUISHMENT OF PROPERTY ACQUIRED.--Any property or rights  
22 of way required for use by the [~~state game commission~~] game  
23 and fish division of the energy, minerals and natural  
24 resources department may be acquired as for a public purpose  
25 and as a matter of public necessity under the power of

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1 eminent domain, by and with the written approval of the board  
2 of county commissioners of the county in which the property  
3 or rights of way sought are located, in an action instituted  
4 and prosecuted in the name of the state, according to the  
5 procedure for condemnation provided by the Eminent Domain  
6 Code; provided, nevertheless, that any property right  
7 acquired under the provisions of this section, if and when  
8 the use for which it was acquired has been abandoned for  
9 three years or otherwise relinquished, shall revert to the  
10 grantor from whom it was derived."

11 SECTION 88. Section 17-4-3 NMSA 1978 (being Laws 1939,  
12 Chapter 223, Section 3, as amended) is amended to read:

13 "17-4-3. SALE, EXCHANGE OR LEASE OF LANDS--PROCEEDS.--  
14 The ~~[state game commission]~~ game and fish division of the  
15 energy, minerals and natural resources department, except as  
16 ~~[herein]~~ limited in this section, is authorized to exchange,  
17 sell, lease, sublease or assign any interest in any lands and  
18 leases heretofore or hereafter acquired, including but not  
19 limited to the sale or lease of timber, oil, gas, minerals or  
20 any other severable product of or interest in real estate,  
21 when in the ~~[judgement]~~ judgment of ~~[said commission such]~~  
22 the division the transaction will be in the interest of the  
23 ~~[state game commission]~~ division and ~~[said]~~ the lands,  
24 leases, products or severable parts thereof are in the  
25 opinion of ~~[such commission]~~ the division no longer necessary

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1 for the purposes for which [~~such~~] the lands were acquired or  
2 where [~~such~~] the lease or sublease will not materially  
3 interfere [~~with~~] or conflict with the use of [~~such~~] the lands  
4 for the purpose for which they were acquired. The proceeds  
5 of any such sale, exchange, lease or assignment shall be  
6 converted into the game protection fund and disbursed as the  
7 other [~~moneys~~] money in [~~said~~] the fund [~~are~~] is disbursed."

8 SECTION 89. Section 17-4-12 NMSA 1978 (being Laws 1912,  
9 Chapter 85, Section 63, as amended) is amended to read:

10 "17-4-12. LICENSE--APPLICATION--CONTENTS--LIMITS.--Any  
11 person having already established or desiring to establish or  
12 maintain a park or lake for the purpose of keeping or  
13 propagating and selling the game or game fish [~~therein~~] in  
14 the park or lake, or to be placed therein, shall apply in  
15 writing to the [~~Warden~~] director of the game and fish  
16 division of the energy, minerals and natural resources  
17 department, stating the name, location, extent and  
18 proprietorship of the [~~same~~] park or lake and the kind and,  
19 as near as may be, the number of game or game fish kept or  
20 desired to be kept therein and the term for which the license  
21 is desired and [~~inclosing~~] enclosing the fee [~~therefor, and~~]  
22 for the license. If upon examination by the [~~Warden~~]  
23 director it [~~shall appear~~] appears that the application is in  
24 good faith and in other respects proper and reasonable, [~~he~~]  
25 the director shall grant to [~~such~~] the applicant a license

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1 therefor; provided that the maximum area that may be included  
2 within any park shall not exceed three thousand two hundred  
3 acres and that every park shall be enclosed by a game-proof  
4 fence ~~[which]~~ that shall conform to specifications required  
5 by the ~~[state game commission]~~ division."

6 SECTION 90. Section 17-4-13 NMSA 1978 (being Laws 1912,  
7 Chapter 85, Section 64, as amended) is amended to read:

8 "17-4-13. LICENSE--~~[SEC. 63]~~ FORM ~~[OF]~~.--~~[SEC. 64.]~~  
9 Such license shall be substantially in the following form:

10 GAME AND FISH  
11 STATE OF NEW MEXICO  
12 ~~[DEPARTMENT OF]~~ GAME AND FISH DIVISION  
13 LICENSED PARKS AND LAKES

14 No. \_\_\_\_\_ Class A. Santa Fe \_\_\_\_\_ [~~19~~] 20

15 This certifies that \_\_\_\_\_  
16 proprietor of a (public or private) (park or lake)  
17 called \_\_\_\_\_ and situated on  
18 \_\_\_\_\_ Sec \_\_\_\_\_ Twp  
19 \_\_\_\_\_ Range \_\_\_\_\_ in  
20 \_\_\_\_\_ county, New Mexico, is hereby  
21 authorized to keep and propagate ~~[therein]~~ and dispose  
22 of as provided by law the following (game quadrupeds,  
23 birds or fish), viz: \_\_\_\_\_ together  
24 with such additions thereto (with the natural increase  
25 of all) as may be hereafter lawfully acquired. This

1 license expires \_\_\_\_\_ years after date.  
2 \_\_\_\_\_ ~~Warden~~ Director."

3 SECTION 91. Section 17-4-16 NMSA 1978 (being Laws  
4 1912, Chapter 85, Section 67, as amended) is amended to  
5 read:

6 "17-4-16. GAME OR FISH FROM PARKS OR LAKES--SALE [~~OF--~~  
7 ~~OWNER--DUTY]~~--INVOICE--FORM [~~WARDEN]~~---[~~SEC. 67.~~] When the  
8 proprietor of any licensed park or lake of Class A shall  
9 sell or dispose of any game or game fish as [~~herein~~]  
10 provided [~~he~~] in Sections 17-4-8 through 17-4-28 NMSA 1978,  
11 the proprietor shall at the same time deliver to the  
12 purchaser or donee or attach thereto an invoice signed by  
13 [~~such~~] the proprietor or [~~his~~] the proprietor's agent,  
14 stating the number of the license and name of [~~such~~] the  
15 park or lake, the date of disposition, the kind and as near  
16 as practicable the number and weight of [~~such~~] the game or  
17 fish and the name and address of the purchaser, consignee  
18 or donee. [~~Such~~] The invoice shall authorize  
19 transportation within this state, possession and use for  
20 thirty days after its date and shall be substantially in  
21 the following form:

22 STATE OF NEW MEXICO

23 [~~DEPARTMENT OF~~] GAME AND FISH DIVISION

24 PRIVATE PARKS AND LAKES--INVOICE

25 Name of park or

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1 lake \_\_\_\_\_ Class A No. of  
2 license \_\_\_\_\_ Date \_\_\_\_\_ [19] 20  
3 \_\_\_\_\_ Kind and number of game and  
4 fish \_\_\_\_\_ Weight of same \_\_\_\_\_  
5 lbs. Name of consignee \_\_\_\_\_  
6 Address of consignee \_\_\_\_\_

7 This authorizes transportation within this state,  
8 possession and sale for thirty days after date if  
9 attached to article.

10 \_\_\_\_\_ Proprietor \_\_\_\_\_  
11 By \_\_\_\_\_ Agent.

12 [~~Such~~] The proprietor or [his] the proprietor's agent  
13 shall at the same time mail, postpaid, a duplicate of [~~such~~]  
14 the invoice to the [Warden] director of the game and fish  
15 division of the energy, minerals and natural resources  
16 department at Santa Fe."

17 SECTION 92. Section 17-4-30 NMSA 1978 (being Laws 1951,  
18 Chapter 66, Section 1) is amended to read:

19 "17-4-30. FEDERAL AID.--The state of New Mexico hereby  
20 assents to the provisions of the act of congress of the  
21 United States [~~of America~~] entitled "An Act to Provide That  
22 The United States Shall Aid The States In Fish Restoration  
23 And Management Projects, And For Other Purposes", approved  
24 August 9, 1950 (Public Law 681, 81st Congress), and the  
25 [~~state game commission~~] game and fish division of the

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1 energy, minerals and natural resources department is hereby  
2 authorized and directed to perform all [~~such~~] acts as may be  
3 necessary to the conduct and establishment of cooperative  
4 fish restoration and management projects as defined by  
5 [~~said~~] that act of congress and in compliance with [~~said~~]  
6 that act and rules and regulations promulgated by the  
7 secretary of [~~Agriculture~~] the interior thereunder."

8 SECTION 93. Section 17-4-31 NMSA 1978 (being Laws 1951,  
9 Chapter 66, Section 2) is amended to read:

10 "17-4-31. FEDERAL FUNDS--DISBURSEMENT.--The [~~state game~~  
11 ~~commission~~] game and fish division of the energy, minerals  
12 and natural resources department is authorized to receive  
13 any [~~moneys~~] money to which the state [~~of New Mexico~~] may  
14 become entitled under the [~~aforesaid~~] act of congress set  
15 forth in Section 17-4-30 NMSA 1978, such [~~moneys~~] money when  
16 received to be deposited with the state treasurer [~~of the~~  
17 ~~state of New Mexico~~] to the credit of the [~~State~~] game  
18 protection fund, expended for the purpose designated and  
19 withdrawn as other [~~moneys are~~] money is withdrawn from the  
20 [~~State~~] game protection fund."

21 SECTION 94. Section 17-4-32 NMSA 1978 (being Laws 1965,  
22 Chapter 73, Section 1) is amended to read:

23 "17-4-32. DESTRUCTION OF BOUNDARY MARKERS.--Every  
24 person who shall [~~wilfully~~] willfully, maliciously and  
25 without cause break down, injure, remove or destroy any

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1 sign, marker or poster erected for the purpose of designating  
2 the boundaries of any tract of land, refuge or sanctuary for  
3 wildlife, or for the purpose of designating the boundaries of a  
4 hunting area set forth by [~~the state game commission~~] or under  
5 the direction of the director of the [~~department of~~] game and  
6 fish division of the energy, minerals and natural resources  
7 department, shall upon conviction thereof be deemed guilty of a  
8 petty misdemeanor."

9 SECTION 95. Section 17-4-33 NMSA 1978 (being Laws 2005,  
10 Chapter 173, Section 1) is amended to read:

11 "17-4-33. GAINING ACCESS INTO NATURE PROGRAM--POLICY--  
12 ADDITIONAL POWERS OF [~~STATE GAME COMMISSION~~] GAME AND FISH  
13 DIVISION.--

14 A. It is the policy of the state [~~of New Mexico~~] to  
15 encourage and promote wildlife-associated recreation in New  
16 Mexico and to provide for public participation in the use of  
17 available natural resources in a manner that will benefit the  
18 general public in its enjoyment of public assets and the state  
19 and its political subdivisions in increased economic  
20 development.

21 B. To implement the state policy, the [~~state game~~  
22 ~~commission~~] game and fish division of the energy, minerals and  
23 natural resources department shall develop and administer a  
24 "gaining access into nature program" pursuant to the provisions  
25 of this section.

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1 C. In addition to its other powers, in order to  
2 develop and administer the gaining access into nature program,  
3 the [~~state game commission~~] game and fish division may:

4 (1) designate areas and properties under its  
5 control where activities other than hunting, fishing and  
6 trapping are available to the public;

7 (2) designate activities that may take place on  
8 properties under its control and designate conditions and  
9 qualifications for the activities;

10 (3) enter into partnership and joint powers  
11 agreements, leases and other contractual arrangements with  
12 other state agencies, private landowners and other private  
13 entities to jointly administer, promote and expand the gaining  
14 access into nature program;

15 (4) issue permits, special use licenses and  
16 other authorizations for access to individuals and  
17 organizations to access [~~state game commission~~] division  
18 properties for purposes of participating in gaining access into  
19 nature programs and charge fees for the access privileges;  
20 provided that the fees do not exceed the reasonable costs  
21 associated with developing and administering the gaining access  
22 into nature program;

23 (5) engage in public outreach programs to  
24 identify through public meetings, surveys and educational  
25 programs the interests of the public that may be best served by

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1 the gaining access into nature program;

2 (6) adopt such rules as it deems necessary for  
3 programs, events or other activities to properly implement the  
4 goals and the administration of the gaining access into nature  
5 program; and

6 (7) subject to appropriation by the legislature,  
7 expend money from the game protection fund necessary to develop  
8 and administer the gaining access into nature program,  
9 including:

10 (a) the reasonable costs of improving  
11 habitat and properties in order to make them suitable for the  
12 public uses intended;

13 (b) costs of personnel necessary to service  
14 the properties being used for the program and to provide  
15 informational and interpretive services on the properties;

16 (c) the reasonable costs of maintenance and  
17 repair of habitat and properties being used for public access  
18 under the provisions of this section; and

19 (d) costs associated with issuing permits,  
20 licenses and other authorizations for access.

21 D. All money collected from issuing and selling  
22 gaining access into nature permits, licenses and other  
23 authorizations for access shall be deposited in the game  
24 protection fund."

25 SECTION 96. Section 17-4-34 NMSA 1978 (being Laws 2005,

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1 Chapter 177, Section 2) is amended to read:

2 "17-4-34. HABITAT MANAGEMENT STAMP--FUND--EXPENDITURE  
3 FOR HABITAT MANAGEMENT--EXCEPTION.--

4 A. On and after April 1, 2006, each of the  
5 following licenses or permits shall include a habitat  
6 management stamp. The fee for a habitat management stamp  
7 shall be three dollars (\$3.00). Each of the following  
8 licenses or permits shall not be considered to be a proper  
9 and valid license unless the licensee can demonstrate, by a  
10 stamp, check off or other official mark, that the fee for the  
11 habitat management stamp has been paid, provided that an  
12 individual purchaser shall be required to purchase only one  
13 stamp each license year, regardless of the number of licenses  
14 or permits purchased by that purchaser:

15 (1) a resident or nonresident license  
16 specified in Section 17-3-13 NMSA 1978; or

17 (2) a wildlife-associated recreation permit  
18 issued by the [~~state game commission~~] game and fish division  
19 of the energy, minerals and natural resources department  
20 pursuant to Section [~~17-1-4~~] 17-1-14 NMSA 1978.

21 B. Revenue from the sale of habitat management  
22 stamps shall be deposited in the "habitat management fund",  
23 hereby created in the state treasury. The fund shall consist  
24 of money appropriated and transferred to the fund and revenue  
25 from the sale of habitat management stamps deposited in the

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1 fund. Earnings from investment of the fund shall be credited  
2 to the fund. Any unexpended or unencumbered balance  
3 remaining at the end of a fiscal year shall not revert.  
4 Disbursements from the fund shall be made upon warrants drawn  
5 by the secretary of finance and administration pursuant to  
6 vouchers signed by the director of the [~~department of~~] game  
7 and fish division.

8 C. Upon appropriation by the legislature, money in  
9 the habitat management fund may be expended by the [~~state~~  
10 ~~game commission~~] game and fish division only for the  
11 improvement, maintenance, development and operation of  
12 property for fish and wildlife habitat management.

13 D. A habitat management stamp shall not be required  
14 for persons under the age of eighteen."

15 SECTION 97. Section 17-4-35 NMSA 1978 (being Laws 2009,  
16 Chapter 38, Section 1, as amended) is amended to read:

17 "17-4-35. AQUATIC INVASIVE SPECIES CONTROL.--

18 A. Based on a determination of credible scientific  
19 evidence, the director, after consulting with the secretary  
20 of energy, minerals and natural resources and with the  
21 concurrence of the director of the New Mexico department of  
22 agriculture, is authorized to designate:

23 (1) species of exotic or nonnative animals or  
24 plants as aquatic invasive species;

25 (2) water bodies within the state as infested

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1 waters; and

2 (3) specific requirements to decontaminate  
3 conveyances and equipment.

4 B. Prior to entering a conveyance or equipment into  
5 any water body in the state, the owner or person in control  
6 of a warning-tagged conveyance or warning-tagged equipment or  
7 a conveyance or equipment that has been in an infested water  
8 body in New Mexico or elsewhere shall:

9 (1) have the conveyance or equipment  
10 decontaminated by a person or entity approved by the director  
11 to effect decontamination, and only the person legally  
12 effecting the decontamination is authorized to remove a  
13 warning tag and provide certification that the conveyance or  
14 equipment is free from infestation; or

15 (2) have the conveyance or equipment inspected  
16 and certified as free from infestation by trained personnel  
17 prior to entering a water body or if certification or other  
18 documentation of decontamination is not available, otherwise  
19 demonstrate compliance with the decontamination requirements  
20 established by the director.

21 C. A law enforcement officer may impound a  
22 conveyance or equipment if the person transporting the  
23 conveyance or equipment refuses to submit to an inspection  
24 authorized by this section and the officer has reason to  
25 believe that an aquatic invasive species may be present, or

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1 if the conveyance or equipment has a warning tag affixed and  
2 the operator of the conveyance is attempting to enter a state  
3 water body and cannot provide evidence that the conveyance or  
4 equipment has been decontaminated. A law enforcement officer  
5 shall take action to prevent equipment or conveyances  
6 believed or known to contain an aquatic invasive species and  
7 warning-tagged equipment or conveyances from entering a state  
8 water body.

9 D. The impoundment of a conveyance or equipment may  
10 continue for a reasonable period necessary to inspect and  
11 decontaminate the conveyance or equipment.

12 E. Notwithstanding any provision to the contrary,  
13 no motor vehicle that is drawing a conveyance shall be  
14 impounded pursuant to this section.

15 F. Trained personnel may:

16 (1) establish, operate and maintain aquatic  
17 invasive species check stations and conduct inspections at or  
18 adjacent to the entrance to any state-controlled water body  
19 or, pursuant to a cooperative agreement, at or adjacent to  
20 any county, municipal or federally or privately controlled  
21 water body or at or adjacent to the exit point of an infested  
22 water body or at a location agreed to by the owner of the  
23 conveyance or equipment in order to inspect conveyances and  
24 equipment prior to a conveyance or equipment entering, being  
25 launched onto or being directly exposed to water bodies of

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1 the state or upon the conveyance's or equipment's departure  
2 from infested waters;

3 (2) affix a warning tag to equipment or a  
4 conveyance where the presence of an aquatic invasive species  
5 has been found;

6 (3) affix a warning tag to a conveyance or  
7 equipment upon the conveyance or equipment leaving an  
8 infested water; or

9 (4) affix a warning tag to a conveyance or  
10 equipment that the trained personnel have reason to believe  
11 is infested with an aquatic invasive species based on its  
12 point of origin or use.

13 G. Except for state, local, tribal or federal  
14 agencies and their respective agents, employees and  
15 contractors while performing their duties or contractual  
16 obligations specific to management or control of an aquatic  
17 invasive species, it is unlawful for a person to:

18 (1) knowingly possess, import, export, ship or  
19 transport an aquatic invasive species into, within or from  
20 the state;

21 (2) knowingly release, place, plant or cause  
22 to be released, placed or planted an aquatic invasive species  
23 into a water body or adjacent to a water body where it  
24 reasonably might be anticipated to be introduced into a water  
25 body that is not infested;

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1                   (3) remove a warning tag other than as  
2 provided pursuant to this section;

3                   (4) introduce any tagged conveyance or  
4 equipment or any equipment or conveyance from which a warning  
5 tag has been unlawfully removed into a water body without  
6 first having that conveyance or equipment decontaminated and  
7 certified pursuant to the provisions of this section; or

8                   (5) knowingly introduce into any water body a  
9 conveyance or equipment that has been exposed to an infested  
10 water body or a water body in any other state known to  
11 contain aquatic invasive species without first being  
12 decontaminated and certified pursuant to the provisions of  
13 this section.

14                   H. Knowingly or willfully violating any provision  
15 of this section as a first offense is a petty misdemeanor. A  
16 second or subsequent violation of any provision of this  
17 section is a misdemeanor. Any violation is punishable  
18 pursuant to Section 31-19-1 NMSA 1978.

19                   I. The director or the director's designee shall  
20 coordinate the monitoring of the water bodies of the state  
21 for the presence of aquatic invasive species, including  
22 privately controlled waters if the director has authorized  
23 access to them or has received permission to monitor them  
24 from the persons controlling access to such waters.

25                   J. Upon determination of an infested water body in

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1 New Mexico, the director shall immediately recommend to the  
2 person in control of the infested water body actions to limit  
3 access or take other actions to prevent the potential spread  
4 of an aquatic invasive species to other water bodies.

5 K. The ~~[commission]~~ division is authorized to adopt  
6 rules pursuant to Section 17-1-26 NMSA 1978, and the  
7 secretary of energy, minerals and natural resources is  
8 authorized to adopt rules pursuant to Section 16-2-32 NMSA  
9 1978 as necessary to implement and enforce the provisions of  
10 this section.

11 L. The director may enter into cooperative  
12 agreements with any federal, state, county or municipal  
13 authority or private entity that may be in control of a water  
14 body potentially affected by aquatic invasive species.

15 M. As used in this section:

16 (1) "aquatic invasive species" means quagga  
17 mussels and zebra mussels and other exotic or nonnative  
18 aquatic animals, including invertebrates but excluding those  
19 species listed as protected in Chapter 17 NMSA 1978, or any  
20 plant or animal species whose introduction into an aquatic  
21 ecosystem is determined by the director, after consulting  
22 with the secretary of energy, minerals and natural resources  
23 and with the concurrence of the director of the New Mexico  
24 department of agriculture, to cause or be likely to cause  
25 harm to the economy, environment or human health or safety;

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1                    [~~(2)~~] "~~commission~~" means the state game  
2 ~~commission;~~

3                    [~~(3)~~] (2) "conveyance" means a motor vehicle,  
4 vessel, trailer or any associated equipment or containers,  
5 including, but not limited to, live wells, fish-hauling  
6 tanks, ballast tanks, motorized skis and bilge areas that may  
7 contain or carry an aquatic invasive species or any other  
8 equipment by which aquatic invasive species may be introduced  
9 into an aquatic ecosystem;

10                    [~~(4)~~] (3) "decontaminate" means to wash,  
11 drain, dry or otherwise treat a conveyance in accordance with  
12 guidelines established by the director in order to remove or  
13 destroy an aquatic invasive species;

14                    [~~(5)~~] (4) "director" means the director of the  
15 [~~department of game and fish~~] division;

16                    (5) "division" means the game and fish  
17 division of the energy, minerals and natural resources  
18 department;

19                    (6) "equipment" means an article, a tool, an  
20 implement, a device or a piece of clothing, including boots  
21 and waders, that is capable of containing or transporting  
22 water;

23                    (7) "infested water" means a geographic  
24 region, water body or water supply system or facility within  
25 the state that the director, after consulting with the

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1 secretary of energy, minerals and natural resources and with  
2 the concurrence of the director of the New Mexico department  
3 of agriculture, identifies as carrying or containing an  
4 aquatic invasive species or a water body outside the state  
5 that has been identified as carrying or containing an aquatic  
6 invasive species;

7 (8) "inspect" means to examine a conveyance or  
8 equipment to determine whether an aquatic invasive species is  
9 present;

10 (9) "law enforcement officer" means a state or  
11 federal certified law enforcement officer;

12 (10) "trained personnel" means individuals who  
13 have successfully completed the United States fish and  
14 wildlife service's aquatic invasive species watercraft  
15 inspection and decontamination training, level I or level II,  
16 or an equivalent training recognized by the director;

17 (11) "warning tag" means a tag that is affixed  
18 to equipment or a conveyance upon the equipment or conveyance  
19 leaving an infested water or upon an inspection determining  
20 that the equipment or conveyance contains an aquatic invasive  
21 species that requires the equipment or conveyance to be  
22 decontaminated; and

23 (12) "water body" means a natural or impounded  
24 surface water, including a stream, river, spring, lake,  
25 reservoir, pond, wetland, tank or fountain."

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1           SECTION 98. Section 17-5-3 NMSA 1978 (being Laws 1939,  
2 Chapter 178, Section 3, as amended) is amended to read:

3           "17-5-3. SEASONS--SPECIAL PERMITS TO TAKE ANIMALS DOING  
4 DAMAGE.--Fur-bearing animals as defined in Section 17-5-2  
5 NMSA 1978 shall be taken only during the seasons declared by  
6 [~~regulation~~] rule of the [~~state game commission~~] game and  
7 fish division of the energy, minerals and natural resources  
8 department promulgated as provided in Section 17-5-4 NMSA  
9 1978. The director of the division may, however, issue  
10 permits at any time for the taking of fur-bearing animals  
11 doing damage to game, private property, poultry or  
12 livestock."

13           SECTION 99. Section 17-5-4 NMSA 1978 (being Laws 1939,  
14 Chapter 178, Section 4, as amended) is amended to read:

15           "17-5-4. [~~STATE GAME COMMISSION~~] GAME AND FISH DIVISION  
16 TO ADMINISTER ACT--RULES [AND REGULATIONS].--The [~~state game~~  
17 ~~commission~~] game and fish division of the energy, minerals  
18 and natural resources department is authorized and directed  
19 to administer the provisions of Sections 17-5-1 through  
20 17-5-9 NMSA 1978 and to make such rules [~~and regulations~~] and  
21 establish such [~~service~~] services as it may deem necessary to  
22 carry out all the provisions and purposes of those sections.  
23 In making [~~such~~] rules [~~and regulations~~] and providing when  
24 and by what means fur-bearing animals may be hunted, taken,  
25 captured, possessed or killed, the [~~state game commission~~]

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1 division shall give due regard to the zones of temperatures  
2 and to the distribution, abundance, economic value and  
3 breeding habits of [~~such~~] the animals. Provided, nothing in  
4 Sections 17-5-1 through 17-5-9 NMSA 1978 shall interfere with  
5 the authority granted to the president of New Mexico state  
6 university under Sections 77-15-1 through 77-15-5 NMSA 1978  
7 or [~~shall~~] prevent livestock producers without a permit from  
8 the taking of bobcats that are doing damage to livestock."

9 SECTION 100. Section 17-5-5 NMSA 1978 (being Laws 1939,  
10 Chapter 178, Section 5, as amended) is amended to read:

11 "17-5-5. TRAPPER'S LICENSES.--

12 A. No resident who has reached [~~his twelfth~~  
13 ~~birthday~~] the age of twelve shall capture, trap or possess  
14 any fur-bearing animal or attempt to do so without first  
15 procuring a resident trapper's license; or, in the case of a  
16 resident who has reached [~~his twelfth birthday~~] the age of  
17 twelve but not [~~his eighteenth birthday~~] the age of eighteen,  
18 a resident junior trapper's license.

19 B. No nonresident shall capture, trap or possess  
20 any fur-bearing animal or skunk or coyote or attempt to do so  
21 without first procuring a nonresident trapper's license.

22 C. No nonresident who resides in a state that does  
23 not permit New Mexico residents to procure nonresident  
24 trapper's licenses may purchase a New Mexico nonresident  
25 trapper's license.

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1 D. Trappers shall release all fur-bearing animals  
2 trapped during closed seasons, and resident trappers who  
3 release all fur-bearing animals during open seasons need not  
4 procure a trapper's license.

5 E. Trappers on official business, paid from state  
6 and federal funds and under supervision of the [~~department~~  
7 ~~of~~] game and fish division of the energy, minerals and  
8 natural resources department, the New Mexico department of  
9 agriculture or the United States fish and wildlife service  
10 need not purchase a trapper's license.

11 F. Trapping of animals, both fur-bearing and  
12 nongame, by a resident in order to protect [~~his~~] livestock or  
13 domesticated animals or fowl shall not be subject to rules  
14 [~~and regulations~~] on trapping made pursuant to Section 17-5-4  
15 NMSA 1978 or to licensing requirements provided in this  
16 section.

17 G. The [~~state game commission~~] game and fish  
18 division may by [~~regulation~~] rule require holders of  
19 trapper's licenses to use bobcat pelt tags and may specify  
20 the conditions for use of the tags."

21 SECTION 101. Section 17-5-8 NMSA 1978 (being Laws 1939,  
22 Chapter 178, Section 9) is amended to read:

23 "17-5-8. OFFICERS AUTHORIZED TO ENFORCE ACT.--All peace  
24 officers, [~~Port of Entry~~] employees of the motor  
25 transportation division of the department of public safety

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1 and [~~deputy game wardens~~] conservation officers are hereby  
2 authorized and required to cooperate fully with the [~~state~~  
3 ~~game commission~~] game and fish division of the energy,  
4 minerals and natural resources department in the enforcement  
5 of [~~this Act~~] Sections 17-5-1 through 17-5-9 NMSA 1978. It  
6 shall be the duty of all [~~such~~] those persons to make  
7 searches, seizures and arrests as in the case of other  
8 misdemeanors."

9 SECTION 102. Section 17-6-1 NMSA 1978 (being Laws 1973,  
10 Chapter 242, Section 1) is amended to read:

11 "17-6-1. SHORT TITLE.--[~~This act~~] Chapter 17, Article 6  
12 NMSA 1978 may be cited as the "Habitat Protection Act"."

13 SECTION 103. Section 17-6-2 NMSA 1978 (being Laws 1973,  
14 Chapter 242, Section 2) is amended to read:

15 "17-6-2. DEFINITIONS.--As used in the Habitat  
16 Protection Act:

17 A. [~~"commission"~~] "division" means the [~~state game~~  
18 ~~commission~~] game and fish division of the energy, minerals  
19 and natural resources department;

20 B. "cross-country" means travel over the  
21 countryside other than by road;

22 C. "vehicle" means any motor-powered mechanical  
23 device used for conveyance; and

24 D. "road" means any maintained or unmaintained  
25 right of way that has been utilized by the public, and

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1 includes roads, streets, highways and state scenic,  
2 recreation or historical trails."

3 SECTION 104. Section 17-6-3 NMSA 1978 (being Laws 1973,  
4 Chapter 242, Section 3, as amended) is amended to read:

5 "17-6-3. RESTRICTIONS ON MOTOR VEHICLE USE--  
6 RECOMMENDATIONS--RULES [~~AND REGULATIONS~~].--

7 A. When the [~~commission~~] division determines that  
8 the operation of vehicles within a certain area is or may be  
9 damaging to wildlife reproduction, wildlife management or the  
10 wildlife habitat of the area, the [~~department~~] division, with  
11 the concurrence of the private land owner or the land  
12 management agency involved, after proper notice, shall hold  
13 public meetings in the area affected on the necessity and  
14 desirability of closing such lands to the operation of any  
15 vehicles for a stated definite period. Upon finding, after  
16 public meetings, that the use of vehicles on such lands is or  
17 may be damaging to wildlife reproduction or habitat and that  
18 it is necessary and desirable to close such lands to vehicles  
19 in order to avoid such damage, the [~~commission~~] division  
20 shall make and publish an order closing such lands to vehicle  
21 operation except on established roads that are marked by  
22 appropriate signs.

23 B. The [~~commission~~] division may also recommend to  
24 the appropriate land management agency or the legislature  
25 that particular areas of land be set aside or made available

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1 for recreational vehicles.

2 C. The [~~commission~~] division may also enter into  
3 agreements with or recommend to public land management  
4 agencies that certain areas be closed to camping during  
5 particular open hunting seasons or that camping be permitted  
6 only in designated areas during such open hunting seasons.

7 D. The [~~commission~~] division may enter into  
8 agreements with private landowners and land management  
9 agencies controlling areas that the [~~commission~~] division has  
10 made recommendations on pursuant to Subsection B of this  
11 section. Any such agreement shall stipulate the  
12 restrictions, prohibitions and permitted uses of vehicles in  
13 such area and the duties of the [~~commission~~] division and  
14 such private landowner or land management agency relating to  
15 the enforcement of the terms of such agreement. Agreements  
16 with private landowners may also include provisions for  
17 sharing costs of performing any of the functions as set forth  
18 in Section [~~53-6-7 NMSA 1953~~] 17-6-7 NMSA 1978.

19 E. The [~~commission~~] division shall adopt and file,  
20 in accordance with the State Rules Act, rules [~~and~~  
21 ~~regulations~~] necessary to carry out the provisions of the  
22 Habitat Protection Act, including [~~regulations~~] rules setting  
23 out procedures for hearings and notice."

24 SECTION 105. Section 17-6-4 NMSA 1978 (being Laws 1973,  
25 Chapter 242, Section 4) is amended to read:

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1 "17-6-4. NOTICES OF RESTRICTIONS--POSTING--  
2 PUBLICATION.--

3 A. For all areas closed to vehicles pursuant to  
4 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978, the [~~commission~~]  
5 division shall cause notices of the restrictions,  
6 prohibitions or permitted uses of such areas to be posted  
7 prior to their effective date on the main traveled roads  
8 entering such areas and at such other locations as the  
9 [~~commission~~] division deems appropriate.

10 B. In addition to the public meetings required by  
11 Section [~~53-6-3 NMSA 1953~~] 17-6-3 NMSA 1978 and posted  
12 notices required by Subsection A of this section, the  
13 [~~commission~~] division shall publish a notice of such  
14 restrictions, prohibitions or permitted uses, together with a  
15 description of the area, in a newspaper of general  
16 circulation in the area of the state affected for three  
17 consecutive weeks prior to the effective date of such  
18 restrictions, prohibitions or permitted uses. Copies of the  
19 notices of restrictions, prohibitions or permitted uses  
20 together with a description or appropriate map of the area  
21 affected by the notices shall be made available to the public  
22 by the [~~commission~~] division."

23 SECTION 106. Section 17-6-7 NMSA 1978 (being Laws 1973,  
24 Chapter 242, Section 7) is amended to read:

25 "17-6-7. EXPENDITURE OF FUNDS--FUNCTIONS.--The

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1     ~~[commission]~~ division may expend such funds as become  
2     available from the game protection fund, state or federal  
3     grants or other sources to carry out the provisions of the  
4     Habitat Protection Act, including but not limited to:  
5             A. investigations and surveys of actual or possible  
6     wildlife habitat damage by vehicles and the study of areas to  
7     be recommended for recreational vehicle use;  
8             B. posting notices of restrictions, prohibitions  
9     and permitted use of vehicles;  
10            C. providing maps and other necessary information  
11    to the public;  
12            D. an informational and educational program on  
13    wildlife habitat preservation and restoration; or  
14            E. the enforcement of the provisions of the Habitat  
15    Protection Act."

16            **SECTION 107.** Section 17-6-8 NMSA 1978 (being Laws 1973,  
17    Chapter 242, Section 8) is amended to read:

18            "17-6-8. LIMITATION OF LIABILITY ON LANDOWNERS.--No  
19    person or corporation, or their successors in interest, ~~[who]~~  
20    that has granted a right of way or easement across ~~[his]~~ the  
21    person's land to the ~~[commission]~~ division for use under the  
22    Habitat Protection Act shall be liable to any user of the  
23    land for injuries suffered on ~~[said]~~ the right of way or  
24    easement unless the injuries are caused by the willful or  
25    wanton misconduct of the grantor."

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1           SECTION 108. Section 17-7-1 NMSA 1978 (being Laws 1976  
2 (S.S.), Chapter 43, Section 1) is amended to read:

3           "17-7-1. SHORT TITLE.--~~[This act]~~ Chapter 17, Article 7  
4 NMSA 1978 may be cited as the "Shooting Range Fund Act"."

5           SECTION 109. Section 17-7-2 NMSA 1978 (being Laws 1976  
6 (S.S.), Chapter 43, Section 2, as amended) is amended to  
7 read:

8           "17-7-2. FUND CREATED.--There is created in the state  
9 treasury a special fund to be known as the "shooting range  
10 fund". All money appropriated to this fund or accruing to it  
11 as a result of gift, deposit or from other sources, except  
12 interest earned on the fund ~~[which]~~ that shall be credited to  
13 the general fund, shall not be transferred to another fund or  
14 encumbered or disbursed in any manner except as provided in  
15 the Shooting Range Fund Act. Appropriated money in the fund  
16 shall not revert to the general fund. Money in the fund  
17 shall be used for construction or improvement of public  
18 shooting ranges pursuant to the Shooting Range Fund Act.  
19 Disbursements from the fund shall be made only upon warrant  
20 drawn by the secretary of finance and administration pursuant  
21 to vouchers signed by the director of the ~~[department of]~~  
22 game and fish division of the energy, minerals and natural  
23 resources department."

24           SECTION 110. Section 17-7-3 NMSA 1978 (being Laws 1976  
25 (S.S.), Chapter 43, Section 3) is amended to read:

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1           "17-7-3. ADMINISTRATION.--

2           A. The [~~state game commission~~] game and fish  
3 division of the energy, minerals and natural resources  
4 department shall administer the provisions of the Shooting  
5 Range Fund Act and shall, pursuant to the State Rules Act,  
6 adopt such rules [~~and regulations~~] as deemed necessary to  
7 carry out the provisions of the Shooting Range Fund Act.

8           B. Rules [~~and regulations~~] shall include:

9                   (1) a method for the determination of a county  
10 or municipality eligibility for grants from the shooting  
11 range fund;

12                   (2) procedures for applications, approvals and  
13 rejections of grant proposals;

14                   (3) a requirement that a county or  
15 municipality contribute at least twenty-five percent of the  
16 cost necessary to complete a shooting range grant proposal;

17                   (4) a requirement that one-half of the local  
18 contribution required by Paragraph (3) of this subsection is  
19 to be money;

20                   (5) a requirement that a shooting range  
21 project shall be undertaken in accordance with specifications  
22 determined by the [~~department of~~] game and fish division.

23 Such specifications may provide for pistol, rifle, shotgun  
24 and archery facilities; and

25                   (6) provisions for the operation and

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1 maintenance of shooting range facilities.

2 C. Grants from the shooting range fund shall be  
3 awarded by the [~~state game commission~~] game and fish division  
4 only for new public shooting range construction or for  
5 improvements to existing public shooting ranges. No funds  
6 shall be approved for maintenance of shooting ranges [~~nor~~] or  
7 for shooting range renovation prior to 1980. No grant from  
8 the money appropriated to the shooting range fund shall  
9 exceed:

10 (1) twenty-five percent of the cost of any one  
11 project; [~~nor~~] or

12 (2) more than ten percent of the amount  
13 appropriated to the shooting range fund by the Shooting Range  
14 Fund Act.

15 D. The [~~state game commission~~] game and fish  
16 division may expend not more than five percent of the  
17 appropriated money in the shooting range fund each fiscal  
18 year for administrative purposes to carry out the provisions  
19 of the Shooting Range Fund Act."

20 SECTION 111. Section 29-4A-3 NMSA 1978 (being Laws  
21 1995, Chapter 59, Section 3, as amended) is amended to read:

22 "29-4A-3. DEFINITIONS.--As used in the Peace Officers'  
23 Survivors Supplemental Benefits Act:

24 A. "fund" means the peace officers' survivors fund;

25 B. "peace officer" means any full-time salaried and

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1 commissioned or certified law enforcement officer of a police  
2 or sheriff's department or a conservation officer of the  
3 energy, minerals and natural resources department [~~of game~~  
4 ~~and fish~~] as used in Chapter 17 NMSA 1978 that is part of or  
5 administered by the state or any political subdivision of the  
6 state; and

7 C. "secretary" means the secretary of public  
8 safety."

9 SECTION 112. Section 30-8-5 NMSA 1978 (being Laws 1975,  
10 Chapter 199, Section 2) is amended to read:

11 "30-8-5. ENFORCEMENT.--The [~~state game commission~~] game  
12 and fish division of the energy, minerals and natural  
13 resources department may designate trained employees of the  
14 [~~commission~~] division vested with police powers to enforce  
15 the provisions of Section [~~40A-8-4 NMSA 1953~~] 30-8-4 NMSA  
16 1978. In addition, members of the state police, county  
17 sheriffs and their deputies, police officers and those  
18 employees of the state [~~park and recreation commission~~] parks  
19 division of the energy, minerals and natural resources  
20 department vested with police powers shall enforce the  
21 provisions of that section."

22 SECTION 113. Section 30-8-7 NMSA 1978 (being Laws 1975,  
23 Chapter 199, Section 4) is amended to read:

24 "30-8-7. PUBLIC EDUCATION.--The [~~state game commission,~~  
25 ~~the state highway~~] department of transportation, the state

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1 ~~[park and recreation commission]~~ parks division and the game  
2 and fish division of the energy, minerals and natural  
3 resources department and the environmental improvement  
4 ~~[agency]~~ division of the department of environment are  
5 encouraged to institute public education programs through the  
6 news media in order to inform the public of the litter  
7 problem in New Mexico and of individual efforts that can be  
8 made to assist in the abatement of the problem. In addition,  
9 these agencies are authorized to work with industry  
10 organizations in a joint anti-litter campaign so that  
11 additional effect may be given to the anti-litter effort in  
12 New Mexico."

13 SECTION 114. Section 30-14-1 NMSA 1978 (being Laws  
14 1963, Chapter 303, Section 14-1, as amended) is amended to  
15 read:

16 "30-14-1. CRIMINAL TRESPASS.--

17 A. Criminal trespass consists of knowingly entering  
18 or remaining upon posted private property without possessing  
19 written permission from the owner or person in control of the  
20 land. The provisions of this subsection do not apply if:

21 (1) the owner or person in control of the land  
22 has entered into an agreement with the ~~[department of]~~ game  
23 and fish division of the energy, minerals and natural  
24 resources department granting access to the land to the  
25 general public for the purpose of taking any game animals,

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1 birds or fish by hunting or fishing; or

2 (2) a person is in possession of a landowner  
3 license given to ~~him~~ the person by the owner or person in  
4 control of the land that grants access to that particular  
5 private land for the purpose of taking any game animals,  
6 birds or fish by hunting or fishing.

7 B. Criminal trespass also consists of knowingly  
8 entering or remaining upon the unposted lands of another  
9 knowing that such consent to enter or remain is denied or  
10 withdrawn by the owner or occupant ~~thereof~~ of the lands.  
11 Notice of no consent to enter shall be deemed sufficient  
12 notice to the public and evidence to the courts, by the  
13 posting of the property at all vehicular access entry ways.

14 C. Criminal trespass also consists of knowingly  
15 entering or remaining upon lands owned, operated or  
16 controlled by the state or any of its political subdivisions  
17 knowing that consent to enter or remain is denied or  
18 withdrawn by the custodian ~~thereof~~ of the lands.

19 D. Any person who enters upon the lands of another  
20 without prior permission and injures, damages or destroys any  
21 part of the realty or its improvements, including buildings,  
22 structures, trees, shrubs or other natural features, is  
23 guilty of a misdemeanor and ~~he~~ shall be liable to the  
24 owner, lessee or person in lawful possession for civil  
25 damages in an amount equal to double the value of the damage

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1 to the property injured or destroyed.

2 E. ~~Whoever~~ Any person who commits criminal  
3 trespass is guilty of a misdemeanor. Additionally, any  
4 person who violates the provisions of Subsection A, B or C of  
5 this section, when in connection with hunting, fishing or  
6 trapping activity, shall have ~~his~~ the person's hunting or  
7 fishing license revoked by the ~~[state game commission]~~ game  
8 and fish division for a period of not less than three years,  
9 pursuant to the provisions of Section 17-3-34 NMSA 1978.

10 F. ~~Whoever~~ Any person who knowingly removes,  
11 tampers with or destroys any "no trespass" sign is guilty of  
12 a petty misdemeanor; except when the damage to the sign  
13 amounts to more than one thousand dollars (\$1,000), ~~he or~~  
14 ~~she~~ the person is guilty of a misdemeanor and shall be  
15 subject to imprisonment in the county jail for a definite  
16 term less than one year or a fine not more than one thousand  
17 dollars (\$1,000) or to both such imprisonment and fine in the  
18 discretion of the judge.

19 G. This section, as amended, shall be published in  
20 all issues of "Big Game Hunt Proclamation" as published by  
21 the ~~[department of]~~ game and fish division."

22 **SECTION 115.** Section 30-32-3 NMSA 1978 (being Laws  
23 1921, Chapter 33, Section 6, as amended) is amended to read:

24 "30-32-3. ARREST FOR VIOLATIONS.--All peace officers of  
25 the state, including ~~[department of game and fish]~~

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1        conservation officers of the game and fish division of the  
2        energy, mineral and natural resources department, have the  
3        power to make arrests on warrant issued by any magistrate of  
4        the state for violation of any of the state forest fire laws,  
5        including Chapter 68, Article 2 NMSA 1978, rules implementing  
6        Chapter 68, Article 2 NMSA 1978 or fire restrictions issued  
7        pursuant to such rules, or without warrant for violations of  
8        those laws committed in their presence, and shall not be  
9        liable to civil action for trespass for acts done in the  
10       discharge of their duties."

11                SECTION 116. Section 35-7-6 NMSA 1978 (being Laws 1968,  
12       Chapter 62, Section 101) is amended to read:

13                "35-7-6. MAGISTRATE ADMINISTRATION--CURRENT STATUTES.--

14                A. Each magistrate shall obtain without cost:

15                        (1) the volume of compiled laws relating to  
16       magistrates, along with current [~~pocket~~] supplements, from  
17       the New Mexico compilation commission;

18                        (2) all current laws relating to motor  
19       vehicles from the [~~commissioner~~] director of the motor  
20       [~~vehicles~~] vehicle division of the taxation and revenue  
21       department;

22                        (3) all current laws relating to game animals  
23       and fish [~~along with all regulations of the state game~~  
24       ~~commission~~] from the [~~department of~~] game and fish division  
25       of the energy, minerals and natural resources department; and

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1                   (4) all current laws relating to motor  
2 carriers, along with all regulations of the [~~state~~  
3 ~~corporation~~] public regulation commission relating to motor  
4 carriers, from the [~~state corporation~~] public regulation  
5 commission.

6                   B. These materials remain the property of the state  
7 and shall be delivered by each magistrate to [~~his~~] the  
8 magistrate's successor in office or to the administrative  
9 office of the courts. Each magistrate is responsible for the  
10 care of the materials and for the cost of replacement in case  
11 of loss, damage or if not disposed of as required in this  
12 section."

13                   SECTION 117. Section 40-5A-1 NMSA 1978 (being Laws  
14 1995, Chapter 25, Section 1) is amended to read:

15                   "40-5A-1. SHORT TITLE.--[~~This act~~] Chapter 40, Article  
16 5A NMSA 1978 may be cited as the "Parental Responsibility  
17 Act"."

18                   SECTION 118. Section 40-5A-3 NMSA 1978 (being Laws  
19 1995, Chapter 25, Section 3, as amended) is amended to read:

20                   "40-5A-3. DEFINITIONS.--As used in the Parental  
21 Responsibility Act:

22                   A. "applicant" means an obligor who is applying for  
23 issuance of a license;

24                   B. "board" means:

25                   (1) the construction industries commission,

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1 the construction industries division and the electrical  
2 bureau, mechanical bureau and general construction bureau of  
3 the construction industries division of the regulation and  
4 licensing department;

5 (2) the manufactured housing committee and  
6 manufactured housing division of the regulation and licensing  
7 department;

8 (3) a board, commission or agency that  
9 administers a profession or occupation licensed pursuant to  
10 Chapter 61 NMSA 1978;

11 (4) any other state agency to which the  
12 Uniform Licensing Act is applied by law;

13 (5) a licensing board or other authority that  
14 issues a license, certificate, registration or permit to  
15 engage in a profession or occupation regulated in New Mexico;

16 (6) the [~~department of~~] game and fish division  
17 of the energy, minerals and natural resources department;

18 (7) the motor vehicle division of the taxation  
19 and revenue department; or

20 (8) the alcohol and gaming division of the  
21 regulation and licensing department;

22 C. "certified list" means a verified list that  
23 includes the names, social security numbers and last known  
24 addresses of obligors not in compliance;

25 D. "compliance" means that:

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1                   (1) an obligor is no more than thirty days in  
2 arrears in payment of amounts required to be paid pursuant to  
3 an outstanding judgment and order for support; and

4                   (2) an obligor has, after receiving  
5 appropriate notice, complied with subpoenas or warrants  
6 relating to paternity or child support proceedings;

7                   E. "department" means the human services  
8 department;

9                   F. "judgment and order for support" means the  
10 judgment entered against an obligor by the district court or  
11 a tribal court in a case enforced by the department pursuant  
12 to Title IV-D of the Social Security Act;

13                   G. "license" means a liquor license or other  
14 license, certificate, registration or permit issued by a  
15 board that a person is required to have to engage in a  
16 profession or occupation in New Mexico; "license" includes a  
17 commercial driver's license, driver's license and  
18 recreational licenses, including hunting, fishing or trapping  
19 licenses;

20                   H. "licensee" means an obligor to whom a license  
21 has been issued; and

22                   I. "obligor" means the person who has been ordered  
23 to pay child or spousal support pursuant to a judgment and  
24 order for support."

25                   SECTION 119. Section 60-2C-10 NMSA 1978 (being Laws

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1 1989, Chapter 346, Section 10) is amended to read:

2 "60-2C-10. PENALTY--CRIMINAL.--

3 A. ~~Any~~ An individual, firm, partnership or  
4 corporation that violates ~~any~~ a provision of the Fireworks  
5 Licensing and Safety Act is guilty of a misdemeanor and upon  
6 conviction shall be punished by a fine of not more than one  
7 thousand dollars (\$1,000) or imprisonment for not more than  
8 one year, or both.

9 B. Nothing in the Fireworks Licensing and Safety  
10 Act shall apply to or prohibit ~~any~~ employees of the energy,  
11 minerals and natural resources department ~~[of game and fish]~~  
12 or the United States fish and wildlife service from  
13 possessing fireworks for control of game birds and animals or  
14 to prohibit ~~any~~ a law enforcement officer from possessing  
15 fireworks in the performance of ~~[his]~~ the officer's duties or  
16 to prohibit ~~any~~ a municipality or civic organization  
17 ~~[therein]~~ from sponsoring and conducting in connection with  
18 ~~any~~ a public celebration an officially supervised and  
19 controlled fireworks display."

20 SECTION 120. Section 66-3-1001.1 NMSA 1978 (being Laws  
21 2005, Chapter 325, Section 1, as amended) is amended to read:

22 "66-3-1001.1. DEFINITIONS.--As used in the Off-Highway  
23 Motor Vehicle Act:

24 A. "board" means the off-highway motor vehicle  
25 advisory board;

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1           B. "department" means the [~~department of~~] game and  
2 fish division of the energy, minerals and natural resources  
3 department;

4           C. "division" means the motor vehicle division of  
5 the taxation and revenue department;

6           D. "fund" means the trail safety fund;

7           E. "off-highway motor vehicle" means a motor  
8 vehicle designed by the manufacturer for operation  
9 exclusively off the highway or road and includes:

10                   (1) "all-terrain vehicle", which means a motor  
11 vehicle fifty inches or less in width, having an unladen dry  
12 weight of one thousand pounds or less, traveling on three or  
13 more low-pressure tires and having a seat designed to be  
14 straddled by the operator and handlebar-type steering  
15 control;

16                   (2) "off-highway motorcycle", which means a  
17 motor vehicle traveling on not more than two tires and having  
18 a seat designed to be straddled by the operator and that has  
19 handlebar-type steering control;

20                   (3) "snowmobile", which means a motor vehicle  
21 designed for travel on snow or ice and steered and supported  
22 in whole or in part by skis, belts, cleats, runners or low-  
23 pressure tires;

24                   (4) "recreational off-highway vehicle", which  
25 means a motor vehicle designed for travel on four or more

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1 non-highway tires, for recreational use by one or more  
2 persons, and having:

3 (a) a steering wheel for steering control;

4 (b) non-straddle seating;

5 (c) maximum speed capability greater than  
6 thirty-five miles per hour;

7 (d) gross vehicle weight rating no greater  
8 than one thousand seven hundred fifty pounds;

9 (e) less than eighty inches in overall  
10 width, exclusive of accessories;

11 (f) engine displacement of less than one  
12 thousand cubic centimeters; and

13 (g) identification by means of a  
14 seventeen-character vehicle identification number; or

15 (5) by rule of the department, any other  
16 vehicles that may enter the market that fit the general  
17 profile of vehicles operated off the highway for recreational  
18 purposes;

19 F. "staging area" means a parking lot, trailhead or  
20 other location to or from which an off-highway motor vehicle  
21 is transported so that it may be placed into operation or  
22 removed from operation; and

23 G. "unpaved public roadway" means a dirt graveled  
24 street or road that is constructed, signed and maintained for  
25 regular passenger-car use by the general public."

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1           SECTION 121. Section 66-3-1017 NMSA 1978 (being Laws  
2 2005, Chapter 325, Section 19, as amended) is amended to  
3 read:

4           "66-3-1017. OFF-HIGHWAY MOTOR VEHICLE ADVISORY BOARD  
5 CREATED--MEMBERS--COMPENSATION.--

6           A. The "off-highway motor vehicle advisory board"  
7 is created to advise the department on matters related to  
8 administration of the Off-Highway Motor Vehicle Act. The  
9 board shall consist of the following seven members appointed  
10 by the governor:

11                   (1) one landowner living near a national  
12 forest or bureau of land management property that is used  
13 extensively for recreational off-highway vehicle activity;

14                   (2) one producer or one grazing permittee on  
15 public lands from the farming or livestock industry;

16                   (3) one person from the off-highway motor  
17 vehicle industry;

18                   (4) one off-highway motor vehicle user;

19                   (5) one hunter or angler;

20                   (6) one quiet recreationalist, such as a  
21 hiker, backpacker, birdwatcher, equestrian, mountain biker,  
22 rock climber or archaeological enthusiast; and

23                   (7) one member with expertise in injury  
24 prevention or treatment.

25           B. The board shall select a chair and a vice chair.

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1 C. The board shall meet at the call of the chair  
2 but not less than twice annually.

3 D. Members shall be appointed to staggered terms of  
4 two years each; provided that no more than four terms expire  
5 in any one year. The board members shall select by lot four  
6 members to serve initial terms of three years each. A  
7 vacancy shall be filled by appointment of the governor for  
8 the remainder of the unexpired term. Members of the board  
9 shall not be ~~[entitled to reimbursement pursuant to the Per~~  
10 ~~Diem and Mileage Act]~~ paid and shall not receive per diem."

11 SECTION 122. Section 72-4A-1 NMSA 1978 (being Laws  
12 2001, Chapter 164, Section 1) is amended to read:

13 "72-4A-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article  
14 4A NMSA 1978 may be cited as the "Water Project Finance  
15 Act"."

16 SECTION 123. Section 72-4A-4 NMSA 1978 (being Laws  
17 2001, Chapter 164, Section 4, as amended) is amended to read:

18 "72-4A-4. WATER TRUST BOARD CREATED.--

19 A. The "water trust board" is created. The board  
20 is composed of the following sixteen members:

21 (1) the state engineer or the state engineer's  
22 designee;

23 (2) the secretary of finance and  
24 administration or the secretary's designee;

25 (3) the executive director of the New Mexico

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1 finance authority or the executive director's designee;

2 (4) the secretary of environment or the  
3 secretary's designee;

4 (5) the secretary of energy, minerals and  
5 natural resources or the secretary's designee;

6 (6) the director of the [~~department of~~] game  
7 and fish division of the energy, minerals and natural  
8 resources department or the director's designee;

9 (7) the director of the New Mexico department  
10 of agriculture or the director's designee;

11 (8) the executive director of the New Mexico  
12 municipal league or the executive director's designee;

13 (9) the executive director of the New Mexico  
14 association of counties or the executive director's designee;

15 (10) five public members appointed by the  
16 governor and confirmed by the senate and who represent:

17 (a) the environmental community;

18 (b) an irrigation or conservancy district  
19 that uses surface water;

20 (c) an irrigation or conservancy district  
21 that uses ground water;

22 (d) acequia water users; and

23 (e) soil and water conservation districts;

24 (11) one public member appointed by the Indian  
25 affairs commission; and

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1                   (12) the president of the Navajo Nation or the  
2 president's designee.

3                   B. The chair of the board shall be elected by a  
4 quorum of the board members. The board shall meet at the  
5 call of the chair or whenever three members submit a request  
6 in writing to the chair, but not less often than once each  
7 calendar year. A majority of members constitutes a quorum  
8 for the transaction of business. The affirmative vote of at  
9 least a majority of a quorum present shall be necessary for  
10 an action to be taken by the board.

11                  C. Each public member of the board appointed by the  
12 governor shall be appointed to a four-year term. To provide  
13 for staggered terms, two of the initially governor-appointed  
14 public members shall be appointed for terms of two years and  
15 three members for terms of four years. Thereafter, all  
16 governor-appointed members shall be appointed for four-year  
17 terms. Vacancies shall be filled by appointment by the  
18 governor for the remainder of the unexpired term.

19                  D. Public members of the board shall be reimbursed  
20 for attending meetings of the board as provided for  
21 nonsalaried public officers in the Per Diem and Mileage Act  
22 and shall receive no other compensation, perquisite or  
23 allowance.

24                  E. Public members of the board are appointed public  
25 officials of the state while carrying out their duties and

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1 activities under the Water Project Finance Act."

2 SECTION 124. TEMPORARY PROVISION--TRANSFER OF  
3 FUNCTIONS, APPROPRIATIONS, PERSONNEL AND PROPERTY--  
4 CONTRACTUAL OBLIGATIONS--STATUTORY REFERENCES.--

5 A. On July 1, 2011, all functions, personnel,  
6 appropriations, money, records, furniture, equipment and  
7 other property, including interests in land, minerals and  
8 water rights, of the department of game and fish and the  
9 state game commission shall be transferred to the game and  
10 fish division of the energy, minerals and natural resources  
11 department.

12 B. On July 1, 2011, contractual obligations of the  
13 department of game and fish and the state game commission are  
14 binding on the energy, minerals and natural resources  
15 department.

16 C. On July 1, 2011, all references in law to the  
17 department of game and fish shall be deemed to be references  
18 in law to the game and fish division of the energy, minerals  
19 and natural resources department. All references in law to  
20 the director of the department of game and fish shall be  
21 deemed to be references to the director of the game and fish  
22 division of the energy, minerals and natural resources  
23 department.

24 D. On July 1, 2011, all references in law to the  
25 state game commission shall be deemed to be references in law

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1 to the game and fish division of the energy, minerals and  
2 natural resources department.

3 SECTION 125. TEMPORARY PROVISION--DUTIES OF STATE GAME  
4 COMMISSION.--Beginning July 1, 2011, the game and fish  
5 division of the energy, minerals and natural resources  
6 department shall assume the duties of the state game  
7 commission. All rules of the state game commission shall  
8 remain in force unless the game and fish division repeals or  
9 amends them.

10 SECTION 126. REPEAL.--Sections 17-1-2 through 17-1-4,  
11 17-1-6, 17-1-15, 17-2-5 and 17-3-25 NMSA 1978 (being Laws  
12 1921, Chapter 35, Sections 2 through 4, Laws 1955, Chapter  
13 59, Section 2, Laws 1931, Chapter 117, Sections 6 and 4 and  
14 Laws 1967, Chapter 26, Section 1 as amended) are repealed.

15 SECTION 127. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2011.